

EXHIBIT 9

**All Nippon Airways
vs.
United Air Lines**

Deposition of

Yusuke Nishiguchi

Volume 1

November 28, 2007

Reported By: Brandon Combs, CSR 12978
Job Number: 1-6057

Yusuke Nishiguchi

1	INDEX		1	Seven Times Square, New York, NY 10036, represented by
2		PAGE	2	MARSHALL S. TURNER and TIMOTHY ESKRIDGE, Attorneys at
3			3	Law, appeared as counsel on behalf of the Plaintiff.
4	EXAMINATION BY MR. TORPEY	5	4	WORTHE, HANSON & WORTHE, The Xerox Centre,
5			5	1851 East First Street, Ninth Floor, Santa Ana,
6			6	CA 92705, represented by JEFFREY A. WORTHE, Attorney at
7	EXHIBITS		7	Law, appeared as counsel on behalf of the Defendant
8	EXHIBIT DESCRIPTION PAGE		8	ALSO PRESENT: Don Wright; Steven S. Fus;
9	8 Operations manual, 2-3 (Japanese)	15	9	Yoshihiro Mizuno; Sadaaki Matsutani, Interpreter; Satoe
10	9 Operations Manual, 2-3 (Japanese)	15	10	Ohari, Interpreter; Stephen Statler, Videographer
11	10 Fig 3, First Possible Direct Line of Sight from UA 809	73	11	--oOo--
12			12	THE VIDEOGRAPHER: Good morning Here begins
13	11 Oct 8, 2003, Mr. Van Mckenny, NTSB	80	13	Videotape 1 of the deposition of Yusuke Nishiguchi in
14	12 Group of papers headed by a copy of the Airline Transport Pilot Certificate of Yusuke Nishiguchi		14	the matter of All Nippon Airways, Limited versus
15	13 Hand-drawn diagram	114	15	United Airlines, Incorporated in the U.S. District Court
16			16	for the Northern District of California. The case
17			17	number is C07-03422 EDL.
18			18	Today's date is November 28, 2007, and the
19			19	time on the video monitor is 10:00 o'clock. The video
20			20	operator today is Stephen Statler representing Combs
21			21	Reporting, 595 Market Street, Suite 620, San Francisco
22			22	This video deposition is taking place at
23			23	595 Market Street and was noticed by Jaffe, Raitt, Heuer
24			24	& Weiss.
25			25	Counsel please identify yourselves and state
		Page 2		Page 4
1	UNITED STATES DISTRICT COURT		1	whom you represent
2	NORTHERN DISTRICT OF CALIFORNIA		2	MR. TORPEY: Scott Torpey on behalf of United
3	--oOo--		3	MR. WORTHE: Jeff Worthe on behalf of United
4	ALL NIPPON AIRWAYS COMPANY,)		4	Airlines
5	LTD,)		5	MR. FUS: Steve Fus, United Airlines
6	Plaintiff,)		6	MR. TURNER: Marshall Turner, Condon & Forsyth
7	vs) No C07-03422 EDL		7	on behalf of All Nippon Airways
8	UNITED AIR LINES, INC.,)		8	MR. MIZUNO: Yoshihiro Mizuno, All Nippon
9	Defendant)		9	Airways
10			10	THE VIDEOGRAPHER: The court reporter today is
11	--oOo--		11	Brandon Combs of Combs Reporting, and would the reporter
12	BE IT REMEMBERED THAT, pursuant to Notice and		12	please administer the oath to the interpreter and to the
13	on Wednesday, November 28, 2007, commencing at		13	witness
14	10:00 a.m. thereof at 595 Market Street, Suite 620,		14	(After being duly sworn, the interpreters,
15	San Francisco, California, before me, BRANDON D. COMBS,		15	Satoe Ohari and Sadaaki Matsutani, translated
16	a Certified Shorthand Reporter, personally appeared		16	questions put to the witness into the Japanese
17	YUSUKE NISHIGUCHI,		17	language and the answers thereto given by the
18	called as a witness by the Defendant being first duly		18	witness were translated into the English
19	sworn, testified as follows:		19	language)
20	--oOo--		20	--oOo--
21	JAFFE, RAITT, HEUER & WEISS, 27777 Franklin		21	EXAMINATION BY MR. TORPEY
22	Road, Suite 2500, Southfield, MI 48034-8214, represented		22	MR. TORPEY: Q Is it Mr. Nishiguchi?
23	by SCOTT R. TORPEY, Attorney at Law, appeared as counsel		23	THE INTERPRETER: Nishiguchi
24	on behalf of the Defendant.		24	MR. TORPEY: Q Nishiguchi. Mr. Nishiguchi,
25	CONDON & FORSYTH, LLP, Times Square Tower,		25	do you speak any English, sir?
	Page 3			Page 5

2 (Pages 2 to 5)

Yusuke Nishiguchi

<p>1 A Just a little</p> <p>2 Q Do you write any English or read any English?</p> <p>3 A A little.</p> <p>4 Q Do you read an English newspaper?</p> <p>5 A I do not.</p> <p>6 Q Let me get some background on you How long</p> <p>7 have you been employed at ANA?</p> <p>8 A 17 years.</p> <p>9 Q And what positions have you held there?</p> <p>10 A I was a copilot I am a captain now</p> <p>11 Q When did you become a captain?</p> <p>12 A It was 2004</p> <p>13 Q In order to become a captain from a copilot,</p> <p>14 what requirements did you have to meet?</p> <p>15 A Can you be more specific.</p> <p>16 Q Were you promoted to captain just because</p> <p>17 you've been there a number of years, or did you have to</p> <p>18 meet some requirements?</p> <p>19 A When you say requirements, what kind of</p> <p>20 requirements?</p> <p>21 Q Well, you tell me. You work for the airline</p> <p>22 You tell me what the requirements are for somebody to go</p> <p>23 from a copilot to a captain at ANA.</p> <p>24 A There are ANA requirements.</p> <p>25 Q Now, I'll ask you again, sir, as I did before,</p> <p style="text-align: right;">Page 6</p>	<p>1 A I do not know</p> <p>2 Q You came here and are leaving here as a</p> <p>3 passenger, not as a crew member; correct?</p> <p>4 A Yes</p> <p>5 Q In preparation for your deposition here, did</p> <p>6 you review any documents, sir?</p> <p>7 A Yes.</p> <p>8 Q And what did you review?</p> <p>9 A The documents that were produced to NTSB.</p> <p>10 Q And do you understand, sir, if those were</p> <p>11 documents produced by ANA to the NTSB?</p> <p>12 A Yes</p> <p>13 Q And did you review any other documents, sir?</p> <p>14 A What kind of documents? About what?</p> <p>15 Q Any documents at all in preparation for your</p> <p>16 giving the deposition today Did you review anything</p> <p>17 other than the submission to the NTSB?</p> <p>18 A The Japanese documents that were translated</p> <p>19 into English were submitted to NTSB, and I have not seen</p> <p>20 any document other than those.</p> <p>21 Q Okay. Do you have any piloting experience</p> <p>22 before you joined ANA, or is all your piloting time</p> <p>23 while employed at ANA?</p> <p>24 A No</p> <p>25 Q I'm sorry? I missed it.</p> <p style="text-align: right;">Page 8</p>
<p>1 what are those requirements?</p> <p>2 A. There are set requirements at the company, but</p> <p>3 I do not know the specifics at this time.</p> <p>4 Q. So why you were promoted from copilot to</p> <p>5 captain, you have no idea is that your testimony, sir?</p> <p>6 MR. TURNER: Objection as to form and</p> <p>7 attitude</p> <p>8 THE WITNESS: I fulfilled the requirements</p> <p>9 That is how I became captain, but I do not know what the</p> <p>10 specific requirements were at this time.</p> <p>11 MR. TORPEY: Q When did you arrive in the</p> <p>12 U.S., sir?</p> <p>13 A. Yesterday morning.</p> <p>14 Q. And about what time?</p> <p>15 A. About now</p> <p>16 Q. About now, about 10:00 a m ?</p> <p>17 A. I don't have a specific recollection, but it</p> <p>18 was around this time now</p> <p>19 Q. When are you scheduled to go back?</p> <p>20 A. Tomorrow.</p> <p>21 Q. At about what time?</p> <p>22 A. I'm scheduled to leave the hotel about this</p> <p>23 time which is around 10:00 o'clock.</p> <p>24 Q. Okay. When did you next have a flight</p> <p>25 scheduled as a crew member for ANA?</p> <p style="text-align: right;">Page 7</p>	<p>1 A. No To the first question, and yes to the</p> <p>2 second.</p> <p>3 Q. You know, I apologize I forgot what I asked.</p> <p>4 A I did not have any piloting experience before</p> <p>5 joining ANA All my piloting experience was gained at</p> <p>6 ANA</p> <p>7 Q The documents that you did review in</p> <p>8 preparation for your deposition, were those in English?</p> <p>9 A No</p> <p>10 Q. When you are a crew member of an ANA flight,</p> <p>11 are there occasions when you are designated to be the</p> <p>12 pilot that communicates with ATC? In other words,</p> <p>13 you're the communicating pilot?</p> <p>14 A. Yes</p> <p>15 Q. And in order to be the pilot communicating,</p> <p>16 you have to be able to speak in English; correct?</p> <p>17 A. Yes.</p> <p>18 Q. How many total hours do you have as a pilot?</p> <p>19 A I do not recall clearly</p> <p>20 Q. Do you have any estimate?</p> <p>21 A. Although I do not have a clear recollection,</p> <p>22 it would be about 19,000 hours up to now</p> <p>23 Q. Were those all -- strike that</p> <p>24 What type of aircraft are you type-rated in?</p> <p>25 A. Boeing 767 and Boeing 777</p> <p style="text-align: right;">Page 9</p>

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<p>1 Q. And when did you first get typed in a 777?</p> <p>2 A I do not have a clear recollection</p> <p>3 Q Would it have been before the year 2000?</p> <p>4 A Yes.</p> <p>5 Q. Can you give me an estimate of how many hours</p> <p>6 you have in type on that 777?</p> <p>7 A Can it be approximate?</p> <p>8 Q Certainly</p> <p>9 A. About 5,000 hours.</p> <p>10 Q. Now, those 5,000 hours in type, do you fly the</p> <p>11 777 generally the same amount of hours every month? It</p> <p>12 may not be exact, but typically do you log your hours</p> <p>13 the same for all 12 months of the year?</p> <p>14 A. Yes</p> <p>15 Q. About how many hours a month do you typically</p> <p>16 fly in a 777 as a crew member?</p> <p>17 A. The average would be about 70 hours.</p> <p>18 Q. 70, seven zero?</p> <p>19 A. 70.</p> <p>20 Q. Of those 70 hours a month in a 777, about how</p> <p>21 many hours at least today is as pilot in command?</p> <p>22 A. It would be about three and a half years</p> <p>23 because that would be the time period after I became</p> <p>24 captain</p> <p>25 Q. All right. Let me break it down. Prior to</p> <p style="text-align: right;">Page 10</p>	<p>1 MR. TORPEY: I apologize. Sorry</p> <p>2 THE WITNESS: I would consider weather and</p> <p>3 also make a general judgment.</p> <p>4 MR. TORPEY: Q If the weather was -- well,</p> <p>5 let me ask you -- strike that.</p> <p>6 In addition to weather, what other factors do</p> <p>7 you consider in deciding whether you should be the</p> <p>8 flying pilot on a particular day?</p> <p>9 MR. TURNER: Objection as to form.</p> <p>10 THE WITNESS: I would also consider the years</p> <p>11 of experience of the first officer.</p> <p>12 MR. TORPEY: Q. And anything other than</p> <p>13 weather and the experience of the first officer that you</p> <p>14 would consider?</p> <p>15 A The situation of the airplane or aircraft</p> <p>16 Q. Anything else?</p> <p>17 A. There would be others, but I can't think of</p> <p>18 them now</p> <p>19 Q Give me a couple of examples of, as you call</p> <p>20 it, situation of the airplane that you would consider in</p> <p>21 determining whether you or the first officer should be</p> <p>22 the flying pilot</p> <p>23 A For example, if there is a failure or a</p> <p>24 problem with the aircraft, I would fly the aircraft.</p> <p>25 CHECK INTERPRETER: The check interpreter</p> <p style="text-align: right;">Page 12</p>
<p>1 becoming a captain in 2004, you were never a pilot in</p> <p>2 command; correct?</p> <p>3 A. No. That's right.</p> <p>4 Q. And of the 70 hours a month that you fly in a</p> <p>5 777, of those 70 hours would be with you as pilot in</p> <p>6 command?</p> <p>7 A. A rough estimate would be -- or a rough</p> <p>8 calculation would be about 60 hours.</p> <p>9 Q. All right. And of the 70 hours per month you</p> <p>10 average in a 777, how many of those hours are with you</p> <p>11 as the flying pilot as opposed to the nonflying pilot?</p> <p>12 A. About 35 hours, about half</p> <p>13 Q. As pilot in command, is it your decision to</p> <p>14 decide whether you or the first officer will be the</p> <p>15 flying pilot for a particular flight?</p> <p>16 A. Yes.</p> <p>17 Q. And how do you decide for a particular flight</p> <p>18 whether it should be you or your first officer that</p> <p>19 would be the flying pilot that day?</p> <p>20 A I make an overall judgment.</p> <p>21 Q. What criteria would you use to say that</p> <p>22 today --</p> <p>23 MR. TURNER: Excuse me.</p> <p>24 CHECK INTERPRETER: The interpreter has not</p> <p>25 completed.</p> <p style="text-align: right;">Page 11</p>	<p>1 would like to put on the record that the Japanese word</p> <p>2 that was translated either to failure or problem,</p> <p>3 f-u-g-u-a-i, which can be malfunction of some sort. It</p> <p>4 can be, in terms of a degree of malfunction, can be very</p> <p>5 slight as compared to the English words used as failure</p> <p>6 or problem.</p> <p>7 That's okay. Just to put it on the record.</p> <p>8 MR. TORPEY: Q Mr. Nishiguchi, for the 777,</p> <p>9 you understand that there's an ANA operations manual;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And are you and your crew members required to</p> <p>13 follow what it directs in the operation manual with</p> <p>14 regard to the operation of the 777 aircraft?</p> <p>15 A. Yes</p> <p>16 Q. Are you familiar with something called a route</p> <p>17 manual as well?</p> <p>18 A. Yes.</p> <p>19 Q. What's the difference between the route manual</p> <p>20 and the ops manual?</p> <p>21 A. The route manual is from the Jeppesen chart,</p> <p>22 and the operation manual describes the policies of ANA.</p> <p>23 Q. Other than the ops manual and the route</p> <p>24 manual, are there any other manuals that are kept</p> <p>25 routinely in the cockpit of a 777 aircraft for ANA?</p> <p style="text-align: right;">Page 13</p>

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1 A. Yes.
 2 Q And what are those things?
 3 A. For example, the MEL, CDL manuals.
 4 Q Minimum equipment list?
 5 A That's right.
 6 Q What do you mean by CDL?
 7 A I have forgotten
 8 Q Let me show you what was marked yesterday as
 9 Exhibit 2, Mr. Nishiguchi, and have you look at the
 10 second page I'll share this with you. Let me hand you
 11 this
 12 MR. TURNER: I would just comment for you,
 13 Mr. Torpey, that in view of some question yesterday as
 14 to whether or not the first two pages of Exhibit 2 were
 15 correct, accurate translation of the Japanese version,
 16 we did obtain that same section from the legal
 17 department, both the Japanese version at the time of the
 18 accident and the current version, and we have it here in
 19 case you're interested
 20 MR. TORPEY: Well, I'm more than interested.
 21 We had asked that it be produced, so if you have a
 22 document to produce. We don't have to discuss it in
 23 front of the witness
 24 MR. TURNER: Well, identify it. The version
 25 that was in effect at the time the accident, lower

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1 right-hand corner is dated 1999 11.1 number 84, and the
 2 current one is 2004.8.1, number 121
 3 (Whereupon, Exhibits 8 and 9 were marked for
 4 identification.)
 5 (Discussion off the record.)
 6 MR. TURNER: As I understand it the court
 7 reporter has marked the 2004 current version as
 8 Exhibit 8 and the 1999 version as Exhibit 9.
 9 MR. TORPEY: Q Mr. Nishiguchi, look at
 10 Exhibit 2, the second page of that in the middle it says
 11 taxi, and under that it says the captain shall perform
 12 taxi in accordance with the following. And it gives
 13 some specifics that the captain has to perform during
 14 taxi.
 15 To your knowledge, was that a direction in the
 16 operations manual back on October 7, 2003, as well?
 17 A I do not have a clear recollection.
 18 Q I want to back up a step. Before you became a
 19 captain in 2004, were you also logging about 70 hours a
 20 month in the 777?
 21 A. Yes
 22 Q. And of those 70 hours before you became a
 23 captain, about how many of those hours were you the
 24 flying pilot as opposed to the nonflying pilot?
 25 A About half of that, therefore, it is the same

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1 as before, about 35 hours.
 2 Q Now, when you were the first officer before
 3 you became a captain, was there any particular route
 4 that you would typically fly, that you flew
 5 predominantly?
 6 A No.
 7 Q Did you fly all international, or did you fly
 8 domestic as well?
 9 A. Both
 10 Q And would those flights that were not
 11 international, would those also be in a 777?
 12 A. Yes.
 13 Q I know you've indicated you flew about 70
 14 hours a month. During those 70 hours, what would be an
 15 average number of takeoffs and landings?
 16 A. I do not know clearly
 17 Q Okay And can you give me an estimate Would
 18 you say it would be, you know, your best estimate of how
 19 many -- in an average month how many takeoffs and
 20 landings you would perform in the approximate 70 hours
 21 that you would be flying a 777?
 22 A It would be difficult for me to estimate such
 23 number of times because it's so different between
 24 international flights and domestic flights
 25 Q Okay Do you have a pilot logbook or

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1 documents that reflect the number of hours that you are
 2 flying?
 3 A. There is no document.
 4 Q Do you know what a pilot logbook is?
 5 A. Yes.
 6 Q And you do not keep a pilot log?
 7 A. I used to have it before I became captain.
 8 CHECK INTERPRETER: I used to keep it before I
 9 became captain.
 10 MR. TORPEY: Q. Why did you stop keeping it
 11 when you became a captain?
 12 A The company computer does that sort of thing
 13 now
 14 Q Do you still have possession of your logbook
 15 from when you were flying before you were a captain?
 16 A It is not clear
 17 Q Would you have given it to ANA, or is that
 18 something that you have personally?
 19 A. I have not given it. If I searched my house,
 20 it may come out.
 21 Q Okay. You have no reason to throw it away, I
 22 assume?
 23 A. Right.
 24 Q Mr. Nishiguchi, when you were a first officer
 25 before 2004, can you tell me about how many times you

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5 (Pages 14 to 17)

1 would have been the flying pilot that taxied the
2 aircraft on the ground, either at departure or on
3 arrival, on average, how many times a month. In fact
4 let me withdraw that

5 Let me ask you this. Of the about 35 times a
6 month that you were the flying pilot before you became a
7 captain, on all of those occasions, were you also the
8 flying pilot that performed taxi during both landing and
9 takeoff?

10 MR. TURNER: Objection as to form and
11 foundation.

12 THE WITNESS: Not necessarily.

13 MR. TORPEY: Q. Okay. Why, on those
14 occasions when you were the flying pilot, the first
15 officer flying pilot, was there someone else that became
16 the flying pilot for purposes of taxiing

17 A. That was the judgment of the captain.

18 Q. Did you ever have an occasion where the
19 captain, although allowed you to be the flying pilot,
20 took over the responsibility as the flying pilot when
21 you were taxiing into or out of San Francisco Airport?

22 A. I do not have a clear recollection.

23 Q. Do you know how many times you have taxied a
24 777 aircraft either on departure or arrival at
25 San Francisco Airport? And I mean as the flying pilot.

Page 18

1 A. Not as related to San Francisco

2 Q. Have you ever been the captain and relieved
3 your flying pilot of the taxi responsibility going into
4 or out of San Francisco Airport?

5 A. No

6 Q. Can you recall any airport where you were the
7 copilot and flying pilot and nonetheless the captain
8 took over responsibility for taxi either at the
9 departure or upon arrival?

10 A. Yes.

11 Q. What airport or airports?

12 A. Sapporo Airport, C-h-i-t-o-s-e, Airport in
13 Sapporo

14 Q. Anywhere else other than Sapporo?

15 A. Yes.

16 Q. And where else?

17 A. Kagoshima Airport, K-a-g-o-s-h-i-m-a.

18 Q. Anywhere else?

19 A. Komatsu Airport, K-o-m-a-t-s-u, Airport.

20 Q. Okay. Any others?

21 A. H-a-n-e-d-a, Airport.

22 Q. Okay. Any others?

23 A. There are others.

24 Q. Tell me every one that you recall, sir.

25 A. Nagasaki Airport, N-a-g-a-s-a-k-i

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1 MR. TURNER: Objection as to form.

2 THE WITNESS: I have forgotten.

3 MR. TORPEY: Q. Do you know whether prior to
4 October 7, 2003, you as the flying pilot ever taxied a
5 777 upon departure or arrival at San Francisco Airport?

6 A. Yes.

7 Q. Can you tell me on how many occasions before
8 October 7, 2003, you were the flying pilot taxiing a 777
9 aircraft upon arrival or departure at San Francisco
10 Airport?

11 A. I do not have a clear recollection of the
12 number of times.

13 Q. Do you have any recollection, or would you be
14 unable to give us any idea?

15 A. I have no idea at this time

16 Q. And I take it therefore you also don't know
17 when prior to October 7, 2003, was the last time you
18 were the flying pilot taxiing upon arrival or departure
19 at San Francisco Airport?

20 A. I do not know at this time.

21 Q. Have you had occasion where you were the
22 flying pilot and the captain decided to taxi himself at
23 San Francisco Airport either upon arrival or departure?

24 A. I have forgotten

25 Q. Whether that happened or not you don't know?

Page 19

1 Q. Okay. Any others?

2 A. A-k-i-t-a. I do not recall others

3 Q. What's your understanding as to why you were
4 relieved of the responsibility to taxi at these
5 airports?

6 A. Because of snow.

7 Q. Any other reasons?

8 A. That was the captain's judgment, so I do not
9 know why.

10 Q. And what about the snow condition -- let me
11 ask you. Would the fact that there were snow conditions
12 make the taxi more dangerous and is that why the captain
13 decided to take over the taxi responsibilities?

14 A. I think so

15 Q. Have you ever been involved in any accidents
16 or incidents other than the one in San Francisco on
17 October 7, 2003?

18 A. No.

19 Q. As a result of the accident at San Francisco,
20 was there any type of reprimand or action taken with
21 regard to you?

22 A. No. There was no reprimand.

23 Q. Was there any training or any other action
24 taken by ANA with regard to yourself specifically in
25 relation to the fact that you had this accident?

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1 A. There was no flight scheduled for about two
2 weeks
3 Q. Other than not scheduling you, was there any
4 other action taken by ANA with regard to yourself as a
5 result of this accident?
6 A. There was a personnel examination.
7 Q. And what did that involve?
8 A. Together with the examiner, Captain Yamaguchi
9 and I did an arrival and departure exercise at
10 San Francisco Airport
11 CHECK INTERPRETER: The examiner was also
12 there, altogether three people and also takeoff and
13 landing, takeoff and landing
14 THE INTERPRETER: I said departure and
15 arrival, but his terminology landing and takeoff is a
16 better term
17 MR. TORPEY: That's fine.
18 Q. Who performed -- let me back up. Just
19 describe for me what it was that you and
20 Captain Yamaguchi had to do at San Francisco?
21 A. It was an ordinary flight
22 Q. Did you have to perform taxi functions?
23 A. No. I didn't do it.
24 Q. Did Captain Yamaguchi have to taxi?
25 A. Yes

Page 22

1 supervisor
2 Q. Did anybody else other than one supervisor
3 come and talk to you?
4 A. I do not have a clear recollection.
5 Q. Okay. Did they talk to you and Mr. Yamaguchi
6 at the same time?
7 A. No.
8 Q. Did the discussion take place before the
9 flight to San Francisco that you told me about that
10 occurred after October 7, 2003?
11 A. No.
12 Q. What do you understand ANA determined to be
13 the cause of the collision on October 7, 2003?
14 MR. TURNER: Objection as to form and
15 foundation.
16 THE WITNESS: I do not know.
17 MR. TORPEY: Q. Who do you understand to be
18 the party or parties responsible for the collision on
19 October 7, 2003?
20 A. I cannot say at this time. I do not know.
21 Q. As a flying pilot on October 7, 2003, that was
22 involved in this accident, in your mind, who do you
23 believe was responsible for causing this collision?
24 A. I can't say who was responsible at this time.
25 Q. Do you believe that you were in any way

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1 Q. Was there a supervisor or check airman or
2 somebody that was in charge of directing or watching
3 what you were doing?
4 A. Yes.
5 Q. Who was that person?
6 A. It was a checker. I do not recall his name.
7 Q. Was it the same person that was the observer
8 pilot on your flight on October 7, 2003?
9 A. No.
10 Q. Was the flight a regularly scheduled flight
11 with pay to you and Mr. Yamaguchi?
12 A. I don't know about that.
13 Q. Prior to October 7 -- strike that
14 Do you understand that ANA conducted an
15 investigation into the cause and circumstances leading
16 up to the collision?
17 A. Yes.
18 Q. And who on behalf of ANA was in charge of that
19 investigation?
20 A. I do not know.
21 Q. What role did you play in the investigation?
22 A. Can you be more specific.
23 Q. Who came to talk to you about what had
24 happened at the airport?
25 A. I do not recall the name. He was a

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1 responsible for causing the collision between the
2 aircraft you were the flying pilot of and the United
3 aircraft?
4 A. No.
5 Q. And you have no opinion as to who aside from
6 yourself may be at fault in any way for causing the
7 collision?
8 MR. TURNER: Can I have that question read
9 back, please.
10 (Record read by the reporter.)
11 MR. TURNER: Objection as to form and
12 foundation.
13 THE WITNESS: I don't know what you mean when
14 you say who is at fault.
15 MR. TORPEY: Q. You indicated that you did
16 not believe that you were at fault or responsible for
17 causing the collision. And my question is have you
18 formed an opinion that anyone else was at fault or
19 responsible for causing the collision?
20 A. I believe that there is a cause, but I do not
21 know about fault.
22 Q. What was the cause?
23 A. I think there were various causes also.
24 Q. Tell me what all those causes are, sir.
25 A. Can you give me a more specific question.

Page 25

7 (Pages 22 to 25)

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<p>1 Q. I believe that is specific. I'm asking you to 2 tell me what in your mind you formed as an opinion of 3 the causes of the collision 4 A. There were many factors involved in the 5 circumstance at that time such as the ATC. 6 Q. What else beyond ATC? 7 A. There are various factors, so I cannot think 8 of them at this time. 9 Q. When you talk about ATC, you're talking about 10 ground control? 11 CHECK INTERPRETER: The witness asked to have 12 the question repeated, and the lead interpreter 13 complied. 14 MR. TORPEY: So where are we? 15 THE WITNESS: There are various -- 16 THE INTERPRETER: I need to. 17 MR. TORPEY: No problem. 18 THE WITNESS: For example, there is the 19 control tower or there's ground control, so there are 20 many factors to ATC 21 MR. TORPEY: Q. Are you referring to ATC to 22 include ramp control tower? 23 A Yes. 24 Q. And do you understand the ramp control tower 25 was, at San Francisco, operated by United Airlines?</p> <p style="text-align: right;">Page 26</p>	<p>1 this entire line of questioning had to do with your 2 personal opinions as to the cause or causes, and you 3 indicated that you personally have come to the 4 conclusion that you believe that ramp control was a 5 cause of this collision. 6 So I'm only asking for what you believe, you 7 personally, as the flying pilot on October 7, 2003, what 8 you personally believe the ramp control did or did not 9 do that caused this collision. 10 MR TURNER: Objection as to form and 11 foundation. 12 THE WITNESS: I do not say that ramp control 13 was the cause, that it was one of the causes. 14 CHECK INTERPRETER: That it was the sole 15 cause. 16 MR TORPEY: Q. I'll try again 17 Mr Nishiguchi, I am not asking whether they 18 were the sole cause. I'm asking you to tell me now what 19 you believe ramp control did or did not do that 20 contributed to the cause of the collision. For example, 21 let me ask you -- translate that, and then I'll add to 22 the question. 23 For example, as the flying pilot, from the 24 time your aircraft taxied from the engine-start line to 25 the point of impact, did you rely on ramp control to</p> <p style="text-align: right;">Page 28</p>
<p>1 A No. 2 Q. You don't know one way or the other? 3 A Right. 4 Q. But you do believe that the ramp control on 5 October 7, 2003, was at least one of the causes for the 6 collision; correct? 7 A. I believe there was also the problem of the 8 entire ATC problem of the ramp control. 9 Q But you do believe that ramp control was one 10 of the causes of this collision; am I correct? 11 A. Yes. 12 Q And how is it that ramp control in your mind 13 contributed to the cause of this collision? 14 A I myself do not know the cause itself. I 15 believe there are various factors. 16 Q. What I'm asking, Mr. Nishiguchi, is you 17 believe that United -- strike that. 18 You believe that ramp control was a cause. 19 What in your mind did ramp control do or not do that you 20 believe contributed to the cause of the collision? 21 A. This is not my opinion, but according to the 22 ANA investigation, a view was reached that two aircrafts 23 could not push back and taxi irrespectively at the same 24 time at that location. 25 Q. Mr. Nishiguchi, I've asked though for your --</p> <p style="text-align: right;">Page 27</p>	<p>1 provide proper clearances and instructions for taxi? 2 THE INTERPRETER: Can you read it back for me 3 MR. TURNER: Just so I don't interrupt, 4 objection as to form and foundation. 5 THE WITNESS: Yes 6 MR. TORPEY: Q And as the flying pilot on 7 October 7, 2003, did you also rely on ramp control to 8 issue traffic advisories and safety alerts to you? 9 A. We did receive taxi clearance. 10 Q. My question, sir, is, as the flying pilot, did 11 you rely on ramp control to issue to you traffic 12 advisories and safety alerts, for example, warning or 13 alert that there was another aircraft potentially in 14 your taxi path? 15 A. I was relying on ramp control and ATC. 16 Q So you agree with me that you relied on ramp 17 control, at least as one of two individuals, to provide 18 traffic advisories and safety alerts? 19 CHECK INTERPRETER: Advisory though is for 20 example, it's a warning -- the lead interpreter is 21 translating advisory as information. That's not 22 necessarily correct 23 MR TORPEY: Q It's really pretty simple. 24 Mr Nishiguchi, do you believe, sir, that you 25 relied as the flying pilot upon ramp control and perhaps</p> <p style="text-align: right;">Page 29</p>

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<p>1 others, to warn you of the potential collision hazard 2 with the United aircraft on October 7 of 2003? 3 A I don't know about warning, but I believe that 4 it is the duty of the pilot to follow the instructions 5 given by ATC including ramp control. 6 Q I'm going to move to strike that answer 7 Mr Nishiguchi, please listen carefully to my 8 question. I did not ask you about that. I asked you 9 simply -- I'll just have the court reporter read back 10 the question, and I'd like you to listen carefully and 11 answer the question that I asked, please 12 (Record read by the reporter) 13 THE WITNESS: I do not know what you mean when 14 you say warn -- quote, warn you, close quote because it 15 is the duty of the pilot to follow the clearance 16 MR. TORPEY: Q. Is it your position as the 17 flying pilot that the ramp control gave you clearance to 18 taxi and you relied on that clearance and that clearance 19 was an assurance, an assurance, to you by the ramp 20 controller that no collision would occur? 21 A We followed the clearance to taxi, but I do 22 not know what you mean when you say assured by such and 23 such 24 Q Did you rely on ramp control as the flying 25 pilot in getting clearance from ramp control -- strike</p> <p style="text-align: right;">Page 30</p>	<p>1 the clearance 2 Q What does the word guarantee mean to you? 3 What does that word mean, sir? 4 A A guarantee, it's like an insurance, but then 5 I do not know what the meaning is really. I don't know 6 what that would mean in the aviation world. 7 MR. TORPEY: I'd ask the interpreter if there 8 is a word in Japanese that is the same as the English 9 word assurance. 10 THE INTERPRETER: Yes And she would use the 11 Japanese word hoshu. 12 MR. TORPEY: Q And what does that mean in 13 Japanese? 14 A It means to guarantee 15 CHECK INTERPRETER: H-o-s-h-o. 16 MR. TORPEY: Q Mr Nishiguchi, was the 17 clearance that was issued by ramp control to you as the 18 flying pilot a guarantee that you would not have a 19 collision with another aircraft if you followed that 20 clearance? 21 A I believe that it was an instruction or 22 permission to taxi including all those things including 23 collision 24 Q And so you relied on that clearance as the 25 flying pilot on October 7 of '03; correct?</p> <p style="text-align: right;">Page 32</p>
<p>1 that 2 Let me rephrase it. As the flying pilot 3 receiving clearance from ramp control to taxi, do you 4 rely on that to mean that there will be no possibility 5 of a collision hazard between yourself and another 6 aircraft if you follow that clearance? 7 A I believed that in general if one can get -- 8 THE INTERPRETER: The interpreter will 9 restate. 10 THE WITNESS: I believe that in general if one 11 followed the air traffic control system, one could get 12 clearance. 13 MR. TORPEY: Q. I'll move to strike that 14 answer. 15 Mr Nishiguchi, we are not talking about 16 whether or not you got clearance We understand that 17 you got clearance, and I'll ask for the last time this 18 question 19 And that is, did you rely on that clearance 20 from ramp control as an assurance to you as the flying 21 pilot that you would not collide with another aircraft 22 if you followed that clearance? That's the question, 23 sir 24 A I do not know what you mean when you say 25 assure. We received clearance, so we simply followed</p> <p style="text-align: right;">Page 31</p>	<p>1 MR TURNER: Objection as to form. 2 THE WITNESS: I did not rely I followed the 3 taxi clearance. 4 CHECK INTERPRETER: Instruction The check 5 interpreter stands corrected. There was no instruction. 6 MR. TORPEY: Q. What does the word rely mean 7 to you, sir? 8 A I don't know what that would mean in the 9 aviation world What other word would there be? 10 Q As the flying pilot of the ANA aircraft that 11 day, Mr. Nishiguchi, did you follow the clearance 12 instructions from ramp control? 13 That's it Did you follow? 14 A Yes 15 Q And do you believe following ramp control's 16 instructions was at least one of the contributing 17 factors in causing the collision on October 7 of 2003? 18 A Can you change -- can you ask me that question 19 in other way 20 Q I think that question is very direct, sir, and 21 I'd like an answer to that question exactly as it's 22 asked. 23 MR. TURNER: Objection as to form. 24 THE WITNESS: Then can I have the question 25 again.</p> <p style="text-align: right;">Page 33</p>

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<p>1 MR. TORPEY: Certainly Read it back in 2 English and in Japanese, please. 3 (Record read by the reporter) 4 THE WITNESS: If we had not taxied, there 5 would not have been a collision, so I believe that is 6 one of the contributing factors. 7 CHECK INTERPRETER: In that sense 8 MR. TORPEY: Q. And the communication 9 between -- strike that 10 The way your aircraft received the clearance 11 that we have been discussing from ramp control was by 12 way of flight deck to ramp control communications; is 13 that correct, sir? 14 A. The clearance is received through the radio 15 communication of the aircraft. 16 Q With ramp control; correct? 17 A All ATC including ramp control. 18 MR. TURNER: We've been going for well over an 19 hour and a half now 20 MR. TORPEY: We can take a break. 21 MR. TURNER: Let's take a break 22 THE VIDEOGRAPHER: This concludes Videotape 1 23 in the deposition of Yusuke Nishiguchi The time on the 24 monitor is 11:34 a.m 25 (Recess taken)</p> <p style="text-align: right;">Page 34</p>	<p>1 English to us. 2 THE INTERPRETER: I might as well have the 3 English version. 4 MR. TORPEY: Let me do this I know Here's 5 what we can do 6 MR. TORPEY: Q. Mr. Nishiguchi, having read 7 Exhibit 9, would you now look at Exhibit 2 and at the 8 second page where it says in English, number 2, taxiing, 9 and it has subparts 1 through 5, is the very first 10 sentence in Exhibit 2 where it says, the captain shall 11 perform taxi in accordance with the following. 12 Does that language appear in Exhibit 9 as 13 well? 14 A. No. 15 Q. What does the first line -- and again, maybe 16 Satoe, could you read us the first line of Exhibit 9 17 after number 2. 18 THE INTERPRETER: In Japanese? 19 MR. TORPEY: Well, it's in Japanese. Can you 20 translate to English. 21 MR. TURNER: You mean the word next to the 2 22 in circle or the line below? 23 MR. TORPEY: That and the line below. 24 MR. TURNER: Okay 25 THE INTERPRETER: It says the time of the</p> <p style="text-align: right;">Page 36</p>
<p>1 THE VIDEOGRAPHER: Here begins Videotape 2 of 2 the deposition of Yusuke Nishiguchi. Coming back on the 3 record. The time on the monitor is 11:48 a.m Please 4 begin. 5 MR. TORPEY: Q. Mr. Nishiguchi, look at 6 Exhibit 8 that you have in front of you please, sir. 7 And look at the second page -- strike that. I 8 apologize. I'm sorry. 9 Look at Exhibit 9. I keep forgetting there's 10 two exhibits there They really shouldn't even be 11 paper-clipped together. 12 Exhibit 9, which is an ops manual page with 13 the date of 1999, apparently November of '99. If you 14 look under item 2 and since this document is entirely in 15 Japanese, obviously I can't read it, but can you read to 16 me what it says at item 2, and then the subitems 1, 17 2 and 3 below it 18 MR. TURNER: You're referring to the 2 that is 19 in the circle as opposed to in the parentheses or 20 outside of them? 21 MR. TORPEY: Exactly 22 MR. TURNER: The 2 that's in the circle. 23 THE WITNESS: Yes, I read them. 24 MR. TORPEY: Would you read -- maybe the 25 easiest thing to do is, Satoe, could you read those in</p> <p style="text-align: right;">Page 35</p>	<p>1 beginning of the powered run. So there's something I 2 need to confirm with him. 3 We have just discovered that the format is 4 different in Japanese than English. In the English 5 version, taxi starts with 2 in a circle and it's just 6 that But in the Japanese version, taxi includes both 2 7 in a circle 3 in a circle. It's longer 8 MR. TORPEY: So there's actually more taxiing 9 instructions in Exhibit 9 than in Exhibit 2; am I 10 correct? 11 THE INTERPRETER: The witness says he doesn't 12 know. 13 MR. TORPEY: Q. Why don't we do this. I 14 don't want to take a lot of time on this, but would 15 you -- in fact, let's do this. Would you find for me in 16 Exhibit 9, wherever it is on Exhibit 9, the language 17 that's contained in Exhibit 2 that says, the captain 18 shall perform taxi in accordance with the following? 19 A. There is no such statement in Exhibit 9. 20 Q. Look at Exhibit 8 Is that statement in 21 Exhibit 8 anywhere? 22 A. No. 23 Q. Going back to Exhibit 2 under item 2, taxi, 24 subpart 2 it says, be observant of all obstacles around 25 him and taxi speed is such that he may bring his</p> <p style="text-align: right;">Page 37</p>

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<p>1 airplane to an immediate and complete stop 2 Is that language contained anywhere on 3 Exhibit 8 or 9? 4 A. Yes Yes Although the term captain isn't 5 included. 6 Q. Okay Look at that same Exhibit 2 7 or -- strike that 8 I'm looking at Exhibit 2 under item 2, taxi, 9 at subpart 5 which says, ask for a signalman's 10 assistance in the event that there's any obstacle in the 11 vicinity of the ramp area. 12 Is that language in Exhibits 8 and/or 9? 13 A. Yes 14 Q. And on October 7, 2003, was Exhibit 9 the 15 current version of the ops manual that you were required 16 to follow in operating your aircraft that day as the 17 flying pilot? 18 A. I do not know. 19 Q. Assuming that it was or assuming that a later 20 version still had those two provisions in it, you were 21 required to follow those directions when you were the 22 flying pilot on October 7 of 2003? 23 MR. TURNER: Objection as to form and 24 foundation. 25 THE WITNESS: No. That is not correct.</p> <p style="text-align: right;">Page 38</p>	<p>1 THE WITNESS: That is a hypothetical question, 2 so I cannot answer. 3 MR. TORPEY: Q. With all due respect, I do 4 want you to answer, and I want you to answer my 5 hypothetical. It is a hypothetical, and I would like 6 you to answer it, please 7 MR. TURNER: Objection as to form and 8 foundation and incomplete hypothetical. 9 THE WITNESS: Well, we are looking at the 2007 10 version of the operations manual, so I do not know if 11 these subitems were included at that time. 12 MR. TORPEY: Q. I'm not asking you whether 13 you knew, Mr. Nishiguchi. I'm telling you, assume they 14 were. 15 MR. TURNER: Same -- 16 MR. TORPEY: Q. And if they were included, 17 you as the flying pilot on October 7, 2003, were 18 required to follow those instructions; correct? 19 MR. TURNER: Objection as to form and 20 incomplete hypothetical. 21 THE WITNESS: I would follow the operations 22 manual, but since I don't know what the content is, I 23 cannot answer. 24 MR. TORPEY: Q. Okay. Fair enough. 25 Why is there an English and a Japanese version</p> <p style="text-align: right;">Page 40</p>
<p>1 Q. So even if the ops manual that was in effect 2 on October 7, 2003, contained the language that is 3 marked at item 2, subparts 2 and 5 of Exhibit 2, your 4 position is you could disregard those instructions as 5 the flying pilot? 6 MR. TURNER: Objection as to form and 7 foundation. 8 MR. TORPEY: I want to withdraw the question 9 Q. As the flying pilot on October 7, 2003, I want 10 you to assume that in the ops manual that applied to 11 your operations of the aircraft that day, that ops 12 manual contained the following language. 13 MR. TORPEY: Why don't you translate that and 14 I'll finish. 15 THE WITNESS: So I should assume that these 16 two were included? 17 MR. TORPEY: Q. That's correct, sir 18 If these two, referring specifically at 19 Exhibit 2, item 2, subparts 2 and 5, if those two items 20 were part of the ANA ops manual for the 777 aircraft on 21 October 7, 2003, then you, Mr. Nishiguchi, as the flying 22 pilot were required to follow those two instructions; 23 correct? 24 MR. TURNER: Objection as to form and 25 foundation.</p> <p style="text-align: right;">Page 39</p>	<p>1 of the ops manual? 2 A. I do not know. 3 Q. Do you keep the English or the Japanese 4 version or both in the aircraft? 5 A. It is not clear. There was the Japanese 6 version. 7 Q. When was the last time you flew a 777 8 aircraft? 9 A. I do not recall. 10 Q. Has it been several months? 11 A. I think it's been several weeks. 12 Q. When you were last in the 777 aircraft, was 13 the English or the Japanese ops manual onboard? 14 A. There was the Japanese manual. 15 Q. And was the route manual in English or 16 Japanese? 17 A. Both. 18 Q. Have you ever heard of the term conflict 19 resolution as a pilot, as a commercial airline pilot? 20 A. No. 21 Q. What is the word that -- strike that. 22 To become a commercial -- strike that. 23 To be a commercial airline pilot with ANA, 24 were you taught by ANA any procedures at all with regard 25 to what to do if you perceive a potential collision</p> <p style="text-align: right;">Page 41</p>

11 (Pages 38 to 41)

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1 hazard with another aircraft while taxiing on the
2 ground?
3 A No.
4 Q Do you understand as a captain or as a
5 previous copilot of an ANA aircraft, that if your
6 aircraft had taxied and collided with another aircraft,
7 that could cause a safety issue?
8 A If there is a collision, it is not safe.
9 Q As a flying pilot for ANA, Mr Nishiguchi, if
10 you believed that while taxiing your aircraft was going
11 to collide with another aircraft, would you stop that
12 aircraft, your aircraft, before colliding?
13 A Oh, well, yes, I would.
14 Q Because colliding with another aircraft while
15 taxiing can have safety concerns, would you also stop
16 your aircraft if you did not know for sure whether or
17 not you were going to have a collision with another
18 aircraft while taxiing?
19 MR. TURNER: Objection as to form and
20 incomplete hypothetical.
21 THE WITNESS: The question was long, and I
22 don't understand it.
23 MR. TORPEY: Read it back please in English
24 and in Japanese.
25 (Record read by the reporter.)

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1 777 and you are also the flying pilot I want you to
2 also assume that you perceive that you could run into
3 another aircraft as you are taxiing
4 If you don't know for sure whether or not you
5 can avoid hitting that aircraft, would you, A, stop
6 until you know whether or not you can clear it or, B,
7 keep going and hope you clear it but you may not?
8 Which would you do, A or B?
9 MR. TURNER: Objection as to form, foundation
10 and incomplete hypothetical
11 THE WITNESS: The question is long, and I
12 don't understand it And when you say could run into,
13 what sort of situation is that?
14 MR. TORPEY: Q. Mr Nishiguchi, it doesn't
15 matter what the situation is. I'm talking to you about
16 running into another aircraft. I don't care if you run
17 into it from the front, the back, the side or upside
18 down.
19 Let me withdraw the question. I'll withdraw
20 the question.
21 Do you have family, sir?
22 A. I am married.
23 Q. Children?
24 A. I do not have children.
25 Q Okay Well, let me ask you, if your wife was

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1 THE WITNESS: I don't know.
2 MR. TORPEY: Q. So even if you are not sure
3 whether or not you're going to collide with another
4 aircraft during taxi, you as the pilot flying would
5 consider continuing taxi rather than stop before you
6 knew whether or not you were going to hit the other
7 aircraft?
8 Is that what your testimony is to the jury,
9 sir?
10 MR. TURNER: Objection as to form, foundation,
11 and incomplete hypothetical
12 THE WITNESS: I do not understand the real
13 intent of the question.
14 MR. TORPEY: Q. Well, with all due respect,
15 Mr. Nishiguchi, I'm not asking you to understand the
16 intent. I would just like you to answer the question.
17 And the reason I'm saying that is, when the
18 jury at the time of trial hears your answer, I want to
19 make sure that I've gotten it from you the way you
20 intended, so there's no misunderstanding.
21 MR. TURNER: Objection to your comment and the
22 question, form and foundation and incomplete
23 hypothetical.
24 MR. TORPEY: Q. Mr Nishiguchi, I want you to
25 assume hypothetically that you are the copilot of an ANA

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1 on an aircraft and that aircraft was taxiing at
2 San Francisco Airport and the pilot flying that
3 aircraft -- another aircraft that he potentially could
4 run into during the taxi.
5 MR. TORPEY: Translate that, and I'll finish.
6 Q. Would you want the pilot of that aircraft
7 carrying your wife to, A, stop the aircraft until the
8 pilot knows for sure he is not going to run into the
9 other aircraft or, B, keep taxiing not knowing whether
10 or not there would be a collision?
11 MR. TURNER: Objection as to form, foundation,
12 and incomplete hypothetical
13 THE WITNESS: And where am I in that question?
14 MR. TORPEY: Q. Doesn't matter where you are,
15 Mr. Nishiguchi. I'm giving you a hypothetical. You are
16 now aware of the information I just provided you. Which
17 of those two decisions would you want the pilot of that
18 aircraft to make? Choice A or choice B?
19 MR. TURNER: Objection as to form, foundation
20 and incomplete hypothetical
21 THE WITNESS: At least I would want him to
22 choose safety.
23 MR. TORPEY: Q. So you would prefer that he
24 stop the aircraft if there's any question about whether
25 he may or may not run into the other aircraft; correct?

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<p>1 MR. TURNER: Objection as to form, foundation 2 and incomplete hypothetical. 3 THE WITNESS: I do not say that. If it is 4 safe, if there's no collision -- 5 THE INTERPRETER: The interpreter will 6 restate. 7 THE WITNESS: I did not say this. I said that 8 it would be good if it is safe and if there is no 9 collision. 10 MR. TORPEY: Q. You said that you want the 11 pilot to choose safety for your wife. As a pilot 12 yourself, Mr. Nishiguchi, do you think it would be a 13 safe choice to continue taxiing an aircraft if you did 14 not know for sure whether or not you were going to 15 collide with another aircraft during that taxi? 16 MR. TURNER: Objection as to form and 17 incomplete hypothetical. 18 THE WITNESS: I do not understand the 19 situation very well, so I could not answer. 20 MR. TORPEY: I'll move to strike that, and I 21 believe that was unresponsive. And I also note for the 22 record that the witness seems to be following a pattern 23 with counsel that when counsel objects, the witness does 24 not provide us substantive answer. 25 MR. TURNER: I object to your comment, and</p> <p style="text-align: right;">Page 46</p>	<p>1 MR. TORPEY: Satoe, what is the Japanese word 2 synonymous with protocol? 3 THE INTERPRETER: I translated it as 4 procedure. 5 MR. TORPEY: Q. Are you going to answer, sir? 6 A. I don't know that I quite understand the 7 question. I vaguely understand it, but I'm not clear 8 about the situation. 9 Q. Mr. Nishiguchi, with all due respect, sir, the 10 question was very clear. I will ask that it be read 11 back one more time, and then I'm going to play this to 12 the jury if need be and let that jury see that as your 13 answer. 14 I think it's very direct, and I'm going, in 15 fairness, to give you one final opportunity to consider 16 the question and to give me your most truthful answer 17 that you will also give to that question in front of the 18 jury that hears this case. 19 MR. TURNER: I just want the witness not to be 20 fooled by Mr. Torpey into believing Mr. Torpey has the 21 ability to play anything to the jury. The judge will 22 determine what is played to the jury and what is not 23 played to the jury, not Mr. Torpey. 24 Please translate that. 25 MR. TORPEY: Why don't you read back the</p> <p style="text-align: right;">Page 48</p>
<p>1 when counsel for ANA objects, he's objecting because 2 your questions are poor questions and improper. 3 MR. TORPEY: Q. As a pilot for ANA, do you 4 have an obligation to provide the utmost in safety to 5 ANA customers and passengers when you're piloting that 6 aircraft? 7 A. Yes. 8 Q. In your opinion as a now captain for ANA, 9 Mr. Nishiguchi, is it safer for the passengers on ANA 10 aircrafts to have you continue taxiing your aircraft 11 when you don't know whether or not you're going to run 12 into another aircraft, or is it safer for you to stop 13 your aircraft until you can determine that you will, in 14 fact, clear the other aircraft? 15 MR. TURNER: Objection as to form, foundation, 16 incomplete hypothetical. And you're just repeating your 17 questions, and you're just arguing with the witness. I 18 really object to the whole process. 19 THE WITNESS: I have said this repeatedly, but 20 I cannot answer that question as to which is better. 21 MR. TORPEY: Q. Do you have a protocol, 22 Mr. Nishiguchi, that you follow when you see a potential 23 collision hazard with another aircraft while taxiing on 24 the ground? 25 A. What do you mean by protocol?</p> <p style="text-align: right;">Page 47</p>	<p>1 question in English, and then ask him to answer it. 2 (Record not read by the reporter.) 3 THE WITNESS: There are all kinds of 4 situations, so I cannot answer the question. 5 MR. TORPEY: Q. I'll move to strike the 6 answer as nonresponsive, and since you will not answer 7 that question, I'll have to ask something different. 8 Mr. Nishiguchi, I want you to assume you are 9 the pilot flying an aircraft for ANA and that you're 10 taxiing. Do you understand the question so far? 11 A. Yes. 12 Q. Second, I want you to assume that you've been 13 given clearance to taxi for takeoff. You understand the 14 question so far? 15 A. Yes. 16 Q. Third, I want you to assume that you now learn 17 after having been cleared to taxi that another aircraft 18 is on short final to land on that same -- 19 MR. WORTHE: You said taxi. You mean takeoff. 20 MR. TORPEY: Takeoff. Excuse me. Let me 21 rephrase it. 22 Q. I want you to assume that another aircraft is 23 on short final to land on that same runway that you've 24 already been cleared to take off on. 25 Do you understand the question so far?</p> <p style="text-align: right;">Page 49</p>

13 (Pages 46 to 49)

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1 MR. TURNER: I'd like to object. Please start
 2 over. I don't know what you were withdrawing and not
 3 withdrawing. I'm sorry
 4 MR. TORPEY: I'll start over
 5 Q Mr Nishiguchi, I want you to assume that you
 6 are the flying pilot and pilot in command of an ANA 777
 7 at San Francisco Airport.
 8 A. Yes.
 9 Q. You understand the question so far?
 10 A. Yes.
 11 Q Next I want you to also assume that you've
 12 received clearance from air traffic control onto the
 13 active runway for takeoff?
 14 A. Yes.
 15 Q. And you understand my question so far?
 16 A. Yes.
 17 Q. Next I want to have you assume that you learn
 18 now that even though you're cleared to take off, you
 19 learn that another aircraft is on short final to land on
 20 that same runway you have been cleared onto.
 21 A. What do you mean by short final to land?
 22 Q. Assume that the other aircraft has been
 23 cleared to land and is in the process, is in final
 24 approach, to land on the same taxiway that you've been
 25 cleared to take off on?

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1 runway, or, B, would you take some other action such as
 2 contacting air traffic control to determine whether
 3 there could be a collision hazard if you taxied onto the
 4 runway?
 5 MR. TURNER: Objection as to form, foundation
 6 and incomplete hypothetical
 7 THE WITNESS: One question, please. If the
 8 runway -- if one enters the runway, then you cannot see
 9 the aircraft.
 10 MR. TORPEY: Q. Mr Nishiguchi, I did not ask
 11 you that, and I asked you to assume what I said to be
 12 true and give me an answer based on that. I'll give you
 13 one more opportunity, and then I'm not going to ask that
 14 question again. And it's obvious that you are not going
 15 to answer that or any other questions like that on this
 16 topic.
 17 MR. TURNER: Objection as to form, foundation,
 18 incomplete hypothetical and counsel's comments.
 19 MR. TORPEY: Q. Mr Nishiguchi, here's what
 20 I'm going to do. I'm going to ask that the question be
 21 read back in English and in Japanese. I want you to
 22 assume what I said to be the case. I do not want you to
 23 include any other information.
 24 I want you to give me your answer based solely
 25 and exclusively -- and I repeat, solely and

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1 MR. WORTHE: Runway.
 2 MR. TORPEY: Excuse me. Runway. I keep
 3 missing the word.
 4 THE WITNESS: But the controller does not give
 5 clearances to two aircraft at the same time
 6 MR. TORPEY: Q Mr Nishiguchi, I want you to
 7 assume my question is true and accurate as given. I
 8 don't want you to introduce new facts. I want you to
 9 accept my hypothetical as is, and based on that, I want
 10 your opinion.
 11 A. Yes.
 12 Q. So let me restate the question, and based on
 13 what I am telling you, I want you to assume it to be
 14 true, and then I'm going to ask you a question
 15 hypothetically.
 16 First, I want you to assume that you have been
 17 cleared onto an active runway to take off at
 18 San Francisco Airport and that you are the pilot in
 19 command and flying pilot
 20 Second, I want you to assume as true that
 21 after you have been cleared onto the active runway for
 22 takeoff and before you have taken off, another aircraft
 23 is cleared to land on that same runway.
 24 In that situation, Mr. Nishiguchi, what would
 25 you do? Would you, A, continue taxiing onto the active

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1 exclusively -- on what I gave you as the hypothetical.
 2 That, sir, is the question before you.
 3 (Record read by the reporter.)
 4 THE WITNESS: I already understand the
 5 question. In answering that question, I would take
 6 action based on my consideration of what the weight of
 7 my own aircraft is. I would also have to know the
 8 altitude, the distance of that other aircraft and also I
 9 would have to know about the wind factor. With all
 10 these factors considered, if I believe that I have
 11 enough time to take off, then I would do so.
 12 MR. TORPEY: Q. And if you did not think you
 13 had enough time or you weren't sure, then you would not
 14 do so; correct?
 15 MR. TURNER: Objection as to form and
 16 foundation.
 17 THE WITNESS: So it's hard for me to answer
 18 unless I know all the conditions.
 19 MR. TORPEY: Move to strike that. Read back
 20 my question.
 21 Q. And I'd ask you, Mr Nishiguchi, to respond to
 22 my question, please.
 23 MR. TURNER: Objection as to form and
 24 foundation.
 25 (Record read by the reporter.)

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<p>1 THE WITNESS: I would need to make an overall 2 consideration based on the distance and the altitude of 3 that other aircraft. Since I'm not in that situation 4 now, I really cannot answer. 5 MR. TORPEY: Q But you can answer. You 6 won't answer. And there's a difference. 7 MR. TURNER: You're just arguing with the 8 witness. Why don't you move on. 9 MR. TORPEY: I'm not going to move on. He's 10 being evasive, and I'm going to continue to question him 11 to a point to make this record. He has already -- 12 I'm not going to argue with you, Marshall. 13 Q. Mr. Nishiguchi, I want you to make a 14 determination. The question is if you don't know, 15 having -- strike that. 16 You've told me what factors you would consider 17 in making the decision in response to my hypothetical. 18 I have, however, now asked you if you did not know that, 19 in fact, you could take off before the other aircraft 20 was to land, would you continue to taxi onto the active 21 runway, or would you take some other action such as 22 stopping and making sure that you could proceed safely 23 with no collision? 24 MR. TURNER: Objection as to form, foundation 25 and incomplete hypothetical</p> <p style="text-align: right;">Page 54</p>	<p>1 Q. Mr. Nishiguchi, if you thought as the pilot in 2 command of an aircraft you were going to run into 3 another aircraft, would you stop? 4 MR. TURNER: Objection as to form and 5 incomplete hypothetical. 6 THE WITNESS: I cannot answer because I don't 7 know what the situation is. You say collision, but if 8 it is right in front, then anybody would stop. 9 MR. TORPEY: Q Let's end this discussion 10 with this, Mr. Nishiguchi. If you did not know whether 11 or not you were going to run into another aircraft while 12 taxiing and while you were the flying pilot and pilot in 13 command -- you understand me so far, sir? 14 A. Yes. Yes. Okay. 15 Q. Would you stop or would you go? 16 MR. TURNER: Objection as to form and 17 incomplete hypothetical. 18 THE WITNESS: I already answered that 19 question. 20 MR. TORPEY: Q And that's your final answer, 21 right, sir? 22 A. That would be my answer to hypothetical 23 questions the conditions of which are incomplete. 24 Q. Well, I won't ask you any more questions about 25 conflict resolution, and I will move to strike your</p> <p style="text-align: right;">Page 56</p>
<p>1 THE WITNESS: I would have to make a judgment 2 based on all kinds of -- or overall considerations 3 including the weather, so I cannot say at this point 4 MR. TORPEY: Move to strike and we'll take 5 that up with the court. 6 Q. Since you won't answer that, Mr. Nishiguchi, 7 let me change to another question. And that is if you 8 were the flying pilot taxiing and you noticed a 9 potential collision with another aircraft, would you 10 stop your aircraft? 11 MR. TURNER: Objection as to form and 12 incomplete hypothetical. 13 THE WITNESS: If there is a collision, of 14 course, I would stop. 15 MR. TORPEY: Q And if there's no collision, 16 you would not stop? 17 A. There are all kinds of situations. Distance 18 would be a factor. I don't understand what the 19 situation is in that question, so I cannot answer. 20 Q. Again, we'll move to strike. 21 Mr. Nishiguchi, have you been told not to 22 answer hypothetical questions? 23 A. No. It is not possible for me to answer 24 because the conditions set forth in the hypothetical 25 questions are too limited.</p> <p style="text-align: right;">Page 55</p>	<p>1 answers, and we'll take that up with the court at 2 another time. 3 After the impact, Mr. Nishiguchi, what did you 4 do? 5 A. I stopped the aircraft. 6 Q. How did you do that? 7 A. I used the brakes. 8 Q. Did you make an emergency stop or a normal 9 stop? 10 A. It wasn't an emergency stop, but the aircraft 11 stopped immediately. 12 Q. Do you know how many seconds it took, or would 13 you just be guessing? 14 A. I could not know. 15 Q. Do you know how many feet it took to bring the 16 aircraft to a stop, or would you just be guessing? 17 A. I do not know. 18 Q. You never went you said to the aircraft and 19 looked around on the ramp area after the impact; am I 20 correct? 21 A. After the impact, I was onboard. 22 Q. You did not get off the aircraft until it was 23 towed back to the terminal, and you walked down the 24 jetway; correct? 25 A. Yes, I believe so.</p> <p style="text-align: right;">Page 57</p>

15 (Pages 54 to 57)

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1 Q. Who was operating the radios on the day of
2 this accident?
3 A. Captain Yamaguchi.
4 Q. Who was navigating?
5 A. What do you mean by navigating?
6 Q. Who was in charge of any navigational
7 decisions if you will or -- you obviously understand the
8 term navigation?
9 A. I know navigation in the air.
10 Q. Who was going to be doing navigation
11 responsibilities on the flight that ended on October 7,
12 2003, in this collision?
13 A. You mean pilot flying?
14 Q. Well, were you as the flying pilot also
15 charged with responsibility of navigating the aircraft?
16 A. The PF is mainly responsible for the
17 operation.
18 Q. From the time the aircraft on October 7, 2003,
19 lined up at the engine-start line at San Francisco up to
20 the impact, do you have a recollection of what you were
21 doing?
22 A. I was the PF, pilot flying.
23 Q. I understand you were the pilot flying, but
24 what were you doing?
25 A. I was doing the things that are set forth in

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1 A. I do not have a clear recollection, but I
2 followed the procedure.
3 Q. And there's other checklist items that you
4 perform prior to taxi; correct?
5 A. Yes. And I did those.
6 MR. TURNER: Mr. Torpey it's after
7 1:00 o'clock
8 MR. TORPEY: Let's finish this. I'm almost
9 done
10 MR. TURNER: Okay
11 MR. TORPEY: Q. There are also checklist
12 items that need to be performed before taxiing on --
13 into the movement area or onto the runway; correct?
14 MR. TURNER: Objection as to form.
15 THE WITNESS: There is a checklist for items
16 to be done before takeoff
17 MR. TORPEY: Q. And are there items on your
18 checklist which need to be done before you get clearance
19 from air traffic control to taxi from the ramp area, in
20 other words, the nonmovement area, into the movement
21 area?
22 A. Those are not determined by a movement area
23 and nonmovement area.
24 Q. Okay. What types of things are done on the
25 checklist before you get to the point that you take off?

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1 the airline operations manual, such as cockpit
2 preparation, engine-start, et cetera and taxi out.
3 Q. You have a checklist in your aircraft;
4 correct, sir?
5 A. Yes.
6 Q. And it's your responsibility as the flying
7 pilot to perform that checklist; correct?
8 A. Yes.
9 Q. And there are checklists for things you do at
10 the gate; correct?
11 A. Yes.
12 Q. There's a checklist for things you do at the
13 engine-start line; correct?
14 A. No.
15 Q. Isn't there a procedure for starting the
16 engine?
17 A. Yes.
18 Q. And that would be done at the engine-start
19 line; right?
20 A. No. It is done at about the same time as the
21 pushback.
22 Q. And at the time -- strike that.
23 On October 7, 2003, you actually started the
24 engines before you got to the engine-start line at
25 San Francisco; is that correct?

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1 A. It changed about two months ago. Now, there
2 is the preparation checklist, before-start checklist,
3 after-start checklist, before-taxi checklist and
4 before-takeoff checklist. Excuse me. According to the
5 new rule the before-start checklist was changed to
6 after-start checklist
7 THE INTERPRETER: The interpreter will
8 restate.
9 THE WITNESS: According to the new rule, the
10 before-taxi checklist was changed to after-start
11 checklist.
12 MR. TORPEY: Q. Is this a Boeing checklist,
13 or is this something that ANA published?
14 A. I think they are pretty much identical, but I
15 am not truly familiar with the Boeing checklist
16 Q. On October 7 of 2003, what checklists applied
17 to the operation of your 777 aircraft?
18 A. Whatever was the most recent and effective
19 checklist there was at that time
20 Q. During the taxi from the engine-start gate --
21 I should say after the taxi from the engine-start
22 gate -- were you performing one of the checklists?
23 MR. TURNER: Can I have that question back,
24 please
25 (Record not read by the reporter.)

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<p>1 MR. TORPEY: I can rephrase it.</p> <p>2 Q. On October 7, 2003, as the flying pilot, were</p> <p>3 you performing any checklists on or after you left the</p> <p>4 engine-start line at San Francisco?</p> <p>5 A. There is a checklist, but as far as they are</p> <p>6 performed before takeoff, it is fine. So I do not</p> <p>7 recall if I was performing them at that time.</p> <p>8 Q. Was there a flight attendant in the cockpit at</p> <p>9 any time prior to the taxi on October 7, 2003?</p> <p>10 And then we'll take a break.</p> <p>11 A. No.</p> <p>12 MR. TORPEY: Okay. We can take a lunch break.</p> <p>13 How long you want to break for?</p> <p>14 MR. TURNER: We'll see you in an hour. What</p> <p>15 is the time?</p> <p>16 THE VIDEOGRAPHER: Going off the record. The</p> <p>17 time on the monitor is 1:07 p.m.</p> <p>18 (Lunch recess taken).</p> <p>19 THE VIDEOGRAPHER: Coming back on the record.</p> <p>20 The time on the monitor is 2:06 p.m. Please begin.</p> <p>21 MR. TORPEY: Q. Mr. Nishiguchi, if you look</p> <p>22 at what was marked yesterday as Exhibit 5, recon photo 1</p> <p>23 that we have displayed here on the board, or you can</p> <p>24 look at the copy your counsel has just shown you,</p> <p>25 whichever is more convenient for you</p> <p style="text-align: right;">Page 62</p>	<p>1 2003</p> <p>2 A. I can't see the nosewheel, so I don't know.</p> <p>3 Q. Okay. Do you have any procedure that you</p> <p>4 follow with regard to when you taxi trying to keep the</p> <p>5 nosewheel or the nose of the aircraft directly on the</p> <p>6 centerline?</p> <p>7 A. Yes.</p> <p>8 Q. What is the procedure?</p> <p>9 A. If I am at the right seat, then I would have</p> <p>10 my left leg on the -- on the or above the centerline</p> <p>11 If I do that, then the aircraft would be traveling along</p> <p>12 the middle.</p> <p>13 Q. And even though you can't see the nosewheel,</p> <p>14 you would assume that the nosewheel would be on or very,</p> <p>15 very closely to the yellow line if you follow that</p> <p>16 procedure; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And as far as the main gear, which is the two</p> <p>19 sets of wheels underneath the wings of the aircraft, if</p> <p>20 you have the nose positioned on the centerline, then the</p> <p>21 centerline would be approximately in the middle between</p> <p>22 the left and the right main gear; correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What's the purpose of the centerline</p> <p>25 that we see in this photograph and the reason why you</p> <p style="text-align: right;">Page 64</p>
<p>1 You can see that there is an aircraft at the</p> <p>2 engine-start area, and up towards the upper portion of</p> <p>3 that photograph is an area where it says spot 10.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And you'll see a line drawing from the front</p> <p>7 of the airplane all the way up to where spot 10 is. Do</p> <p>8 you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Is that called the centerline of the taxiway</p> <p>11 or ramp area?</p> <p>12 A. Yes.</p> <p>13 Q. And you as the flying pilot on October 7,</p> <p>14 2003, were you keeping the nose tire of your aircraft on</p> <p>15 that centerline?</p> <p>16 A. It wasn't the nose tire. I was operating the</p> <p>17 aircraft so that the main landing gear would straddle</p> <p>18 the white line.</p> <p>19 Q. In the photograph, this is the line that</p> <p>20 you're referring to; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And where would the nosewheel be positioned as</p> <p>23 you were taxiing the aircraft from the engine-start line</p> <p>24 to the spot 10? And specifically I'm asking for your</p> <p>25 recollection if you have one for the taxi on October 7,</p> <p style="text-align: right;">Page 63</p>	<p>1 want to have your aircraft positioned so it's following</p> <p>2 the centerline as you just described?</p> <p>3 MR. TURNER: Objection as to form.</p> <p>4 THE WITNESS: In order not to stick out from</p> <p>5 the taxiway.</p> <p>6 MR. TORPEY: Q. What do you mean by not stick</p> <p>7 out from the taxiway?</p> <p>8 A. We are aware that there are the edges of the</p> <p>9 taxiway, but if there is no centerline, then an aircraft</p> <p>10 may turn to -- may -- may veer somewhat to either side.</p> <p>11 Q. Is the purpose for your following the</p> <p>12 centerline with the nose of the aircraft to keep the</p> <p>13 wings of that aircraft from penetrating beyond the</p> <p>14 taxiway itself?</p> <p>15 A. I think that is one of the reasons also.</p> <p>16 Q. Okay. And if you look at this photo, for</p> <p>17 example, can you see a line to the right and to the left</p> <p>18 of the aircraft wing tips?</p> <p>19 A. Do you mean this line of this aircraft?</p> <p>20 Q. This line right here.</p> <p>21 A. Yes. I can see it.</p> <p>22 Q. And a similar line here. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Am I correct that the width of the taxiway in</p> <p>25 this photo extends from this line to that line; is that</p> <p style="text-align: right;">Page 65</p>

17 (Pages 62 to 65)

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<p>1 correct?</p> <p>2 A. It is hard to tell.</p> <p>3 Q In your experience, flying into San Francisco</p> <p>4 Airport, is there a line on either side of the taxiway</p> <p>5 that demarks the distance of the taxiway, in other</p> <p>6 words, the width?</p> <p>7 A... There are lines.</p> <p>8 Q. And I know that it's not real bright in this</p> <p>9 photo, but if you look at this line to the left, excuse</p> <p>10 me, to the right of the aircraft -- and it's probably</p> <p>11 clearer on the small picture you have there. You might</p> <p>12 want to look at that -- if you go to the right of the</p> <p>13 line I just pointed to, is that a service vehicle line?</p> <p>14 In other words, is that the lane where trucks and</p> <p>15 service vehicles drive at the airport?</p> <p>16 A. I think so.</p> <p>17 Q. And if we look at the other side, to the left</p> <p>18 of the wing, would there again be a service road beyond</p> <p>19 the edge of the taxiway?</p> <p>20 A. I can't tell just on the basis of this</p> <p>21 photograph.</p> <p>22 Q. Do you have a recollection of whether there is</p> <p>23 a service lane on the left in that area?</p> <p>24 A. I do not recall.</p> <p>25 Q. You don't know one way or the other?</p> <p style="text-align: right;">Page 66</p>	<p>1 could create a collision hazard between the aircraft and</p> <p>2 another object or vehicle?</p> <p>3 A. I think that is one of the reasons too</p> <p>4 Q. Do you recall -- and don't guess if you don't</p> <p>5 recall -- but if you do recall, do you</p> <p>6 remember -- strike that</p> <p>7 Let me show you what was marked yesterday as</p> <p>8 Exhibit 6 and ask if you've seen that before</p> <p>9 A. No.</p> <p>10 Q. If you'll take a look -- let me back up.</p> <p>11 I'll represent to you that Exhibit 6 is a</p> <p>12 partial transcript of the cockpit voice recorder</p> <p>13 prepared by ANA and submitted to the NTSB as part of</p> <p>14 their investigation materials submitted to the NTSB.</p> <p>15 Have you ever, by the way, Mr. Nishiguchi,</p> <p>16 ever listened to the cockpit voice recording after this</p> <p>17 accident?</p> <p>18 A. No.</p> <p>19 MR. TURNER: I just want to make a comment</p> <p>20 that I am not sure that Mr. Torpey's representation is</p> <p>21 accurate. In fact, I don't think it's accurate, but</p> <p>22 he's making that representation here</p> <p>23 It's his question, but I want the witness to</p> <p>24 know that I do not necessarily agree with his statement.</p> <p>25 This is a transcript of the cockpit voice recording</p> <p style="text-align: right;">Page 68</p>
<p>1 A. I don't know.</p> <p>2 Q. Okay. Now, if you were to -- strike that</p> <p>3 If you were taxiing the aircraft along the</p> <p>4 centerline, is there any reason why you would want to</p> <p>5 deviate from the centerline before reaching spot 10?</p> <p>6 MR. TURNER: Objection as to form and</p> <p>7 foundation and incomplete hypothetical</p> <p>8 MR. TORPEY: Q. Take your time. That's okay.</p> <p>9 A. You ask me if there's any reason, but in the</p> <p>10 world of space it is sometimes difficult to always keep</p> <p>11 on the centerline, so at times there could be an</p> <p>12 intentional shift from the centerline, or there could be</p> <p>13 an unnoticed shift.</p> <p>14 Q. Have you ever had an occasion to make an</p> <p>15 intentional shift while taxiing from the engine-start</p> <p>16 line, along this line, in other words, intentionally not</p> <p>17 following the centerline?</p> <p>18 MR. TURNER: Are you specifically referring to</p> <p>19 San Francisco International or just in general?</p> <p>20 MR. TORPEY: Well, let me rephrase it</p> <p>21 Q. I'll put it this way. Do you agree with me,</p> <p>22 Mr. Nishiguchi, that the reason that centerlines on</p> <p>23 taxiways are painted and the reasons why pilots are</p> <p>24 taught and required to follow the centerline with the</p> <p>25 center of their aircraft, is because failure to do so</p> <p style="text-align: right;">Page 67</p>	<p>1 prepared by ANA.</p> <p>2 MR. TORPEY: Well, that's a speaking objection</p> <p>3 and that's not proper, and I'd ask you not to do that</p> <p>4 again</p> <p>5 Before we continue, Counsel, can we have an</p> <p>6 agreement that all objections whether to form,</p> <p>7 foundation or anything else are preserved so that you</p> <p>8 don't have to interrupt my cross-examination of this or</p> <p>9 the witness tomorrow.</p> <p>10 MR. TURNER: We have federal rules that all</p> <p>11 objections except as to form are reserved to the time of</p> <p>12 trial, and I'll make my objections as to form. But this</p> <p>13 was not an objection to the question. This was an</p> <p>14 objection to your misrepresentation.</p> <p>15 MR. TORPEY: I'm asking you whether you'll</p> <p>16 stipulate that we can preserve all objections including</p> <p>17 form and foundation so that you won't have to raise them</p> <p>18 any further in this deposition or the deposition</p> <p>19 tomorrow.</p> <p>20 MR. TURNER: We'll see as we go along</p> <p>21 MR. TORPEY: I need the stipulation now or say</p> <p>22 no.</p> <p>23 MR. TURNER: No.</p> <p>24 MR. TORPEY: No. Okay.</p> <p>25 Q. Mr. Nishiguchi, let me have you look at</p> <p style="text-align: right;">Page 69</p>

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<p>1 Exhibit 6, and you'll see in the center it says ramp com 2 time Do you see that column? 3 A. Yes 4 Q It says there that at 11:53:51 through 57, it 5 says, Nippon 007, you are cleared to spot 10 Do you 6 see that? 7 A. Yes. 8 Q Now, you were not the communicating pilot; 9 correct? 10 A No. 11 Q Were you paying attention to what was being 12 said by the communicating pilot to ramp control or from 13 ramp control to the communicating pilot? 14 A Yes. 15 Q Was there some type of a speaker, if you will, 16 in the cockpit so that even though you weren't the 17 communicating pilot, you could hear the transmissions 18 from ramp control to your flight deck? 19 A. Yes. 20 Q As you sit here today, do you have any 21 recollection of any of the -- without looking at the 22 transcript that I've shown you -- do you have any 23 independent recollection of any communications, in other 24 words, things that were said by ramp control to your 25 aircraft or your aircraft to ramp control, at any time</p> <p style="text-align: right;">Page 70</p>	<p>1 between the start line and spot 10 you were when any of 2 the other communications took place, or do you not 3 recall it at this point? 4 MR TURNER: Objection as to form 5 THE WITNESS: I do not recall. 6 MR TORPEY: Q Mr Nishiguchi, let me ask 7 you, with regard to the -- did you ever see a transcript 8 of the cockpit voice recorder at any time? 9 A. No, I haven't 10 MR. TORPEY: Could I see that exhibit. Thank 11 you 12 Q. Now, you said you were promoted to captain 13 Is there a potential promotion to another level, and if 14 so, what would be the next level for you? 15 A I don't think there is any 16 Q. Let me show you another photograph. In fact, 17 let's mark it. I don't think it's been marked 18 Before we do that, do you remember as you were 19 taxiing from the engine-start line, do you recall 20 whether you were at all times looking outside the 21 cockpit windows or for some reason would you 22 occasionally be looking down or somewhere other than 23 looking outside during that taxi period on October 7 of 24 '03? 25 MR. TURNER: Objection as to form.</p> <p style="text-align: right;">Page 72</p>
<p>1 prior to the impact? 2 A. I recall you're cleared to spot 10 3 Q. Anything else that you recall other than that, 4 or is that all you independently recall at this point? 5 A. This is four years ago, so I have forgotten. 6 Q And with regard to -- we're looking at the 7 aircraft here on Exhibit 5 With regard to where your 8 airplane was, in other words, where it was between the 9 start line and spot 10, where it was when that 10 discussion at 11:53:51 through 57 took place, I take it 11 you don't really recall that either 12 A. This took place when taxiing began. 13 Q. Okay So would the area where the airplane is 14 shown on Exhibit 5 be about the spot you're referring to 15 when that communication took place? 16 A I don't know for sure 17 Q. Does it appear to be approximately the 18 location as you recall? 19 A We need the clearance before we begin taxiing, 20 and so this would have happened before we began taxiing, 21 so that would be the approximate location. 22 Q With regard to other transmissions that are 23 reflected in Exhibit 6 that took place after the 24 clearance to spot 10, can you tell us, if you recall at 25 this point, do you recall where along the taxi route</p> <p style="text-align: right;">Page 71</p>	<p>1 THE WITNESS: I have forgotten. 2 MR TORPEY: Q. Okay Fair enough How tall 3 are you, sir? 4 A. 175 centimeters. 5 Q With regard to your -- strike that 6 Do you recall if -- on October 7, 2003, do you 7 recall the very first moment that you saw the United 8 aircraft that you ultimately collided with? Do you 9 recall if it was at the gate or had it been already 10 started to push back or do you recall at all? 11 MR TURNER: Objection as to form. 12 MR. TORPEY: Let me withdraw Let me 13 withdraw I'll withdraw the question Why don't we 14 mark this. 15 THE VIDEOGRAPHER: Counsel, can I change tape 16 while you do this. 17 MR TORPEY: Yeah That's a good time to do 18 that 19 (Whereupon, Exhibit 10 was marked for 20 identification.) 21 (Recess taken.) 22 THE VIDEOGRAPHER: Here begins Videotape 3 in 23 the deposition of Yusuke Nishiguchi Coming back on the 24 record. The time is 2:40. Please begin 25 MR. TORPEY: Q Mr Nishiguchi, let me show</p> <p style="text-align: right;">Page 73</p>

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1 you what was marked as Exhibit 10 which we also have up
 2 on the screen. And if you look at the bottom of the
 3 photograph, it says ANA 001058. Do you see that?
 4 You see next to the exhibit sticker, ANA? You
 5 see that?
 6 A. Yes.
 7 Q. Okay. Let me pull this back. That,
 8 Mr. Nishiguchi, is a photograph that was provided to us
 9 by counsel for ANA in what's called the Rule 26
 10 disclosure.
 11 And so you understand, sir, that is a document
 12 that was prepared not by us but provided by -- provided
 13 to us by ANA or at least their counsel. Do you
 14 understand that?
 15 A. Yes.
 16 Q. And you see at the bottom of the photograph it
 17 says, figure 3, first possible direct line of sight from
 18 UA 809. Do you see that?
 19 A. Yes.
 20 Q. Now, you see this line here, this black line?
 21 A. Yes.
 22 Q. If this is your aircraft on October 7, 2003,
 23 and this is United 809 on that same date -- strike that.
 24 Let me start over. You see there's a line
 25 drawn between the cockpit of this aircraft, which is

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1 United's view of your aircraft taxiing up along the
 2 centerline; correct?
 3 A. Well, since that isn't me, I don't know.
 4 Q. Okay. Well, looking at the photograph, does
 5 it appear from the photograph as the line is drawn that
 6 the crew of the United Airlines would be able to see
 7 past the tail and see your aircraft in that drawing?
 8 A. I don't know.
 9 Q. Well, let me do this. Let me do something
 10 that this picture also shows. Well, there's a line
 11 drawn from the cockpit of the United aircraft to the --
 12 or I should say from the tip of the United aircraft to
 13 the tip of your aircraft.
 14 It would be fair to say that you really can't
 15 tell whether you or the United aircraft or either could
 16 see each another at that point because this green
 17 airplane is positioned at the gate in the middle between
 18 you; correct?
 19 A. Right.
 20 Q. Let me ask you a different question. If we
 21 were to draw a line from the cockpit, which would be
 22 approximately -- this is approximately the cockpit in
 23 the ANA aircraft on this photograph true? About where
 24 my pen is.
 25 A. Yes.

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1 represented to be the ANA aircraft that you were the
 2 pilot of, and the United aircraft flight 809. You see
 3 that line?
 4 A. Rather than the cockpit it looks like the
 5 nose.
 6 Q. Well, the cockpit is very close to the nose,
 7 isn't it?
 8 A. Yes.
 9 Q. If ANA's representation is correct that this
 10 is the location for the first possible direct line of
 11 sight from UA 809 to the nose of your aircraft, would
 12 you agree with me that it would also be the first
 13 possible direct line of sight from the nose of your
 14 aircraft to the nose of the United aircraft?
 15 A. This is just a line. Because of obstacles
 16 such as that green airplane in the middle, I'm not sure
 17 if it was the first time that it was possible to see the
 18 other aircraft.
 19 Q. All right. So that would apply both to United
 20 and to ANA; correct?
 21 A. Yes.
 22 Q. Okay. So in other words, if the United crew
 23 is here in the cockpit looking to their right, the tail
 24 of this parked green airplane that's in between the
 25 United aircraft and your aircraft could be blocking

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1 Q. And this is the tail of the United aircraft;
 2 correct?
 3 A. Yes.
 4 Q. And this is the wing structure from the United
 5 aircraft; correct?
 6 A. Yes.
 7 Q. And this is the fuselage of the United
 8 aircraft; correct?
 9 A. Yes.
 10 Q. And the vertical tail, there is a big fin that
 11 goes up vertically here; correct?
 12 A. Yes.
 13 Q. Now, even if you and/or the United crew cannot
 14 see each other in terms of the nose, if you are looking
 15 from your right-hand seat at the United aircraft, you
 16 would be able to see the tail and the wings of the
 17 United aircraft; correct?
 18 A. I do not recall.
 19 Q. Well, I'm not asking you if you recall at the
 20 moment. Let's do this. All right. Let's draw
 21 hypothetically a different line. If you draw a line --
 22 I don't want to cover that up. Okay. Let's say I draw
 23 a line from the nose of the ANA aircraft to the United
 24 aircraft. Do you see that?
 25 MR. TURNER: Can I ask you, Mr. Torpey, have

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20 (Pages 74 to 77)

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<p>1 you done that on the marked exhibit?</p> <p>2 MR. TORPEY: That is the marked exhibit,</p> <p>3 correct.</p> <p>4 MR. TURNER: So let the record reflect that</p> <p>5 Mr. Torpey has just drawn that line on the marked</p> <p>6 Exhibit 10</p> <p>7 MR. TORPEY: I think the video will reflect</p> <p>8 that</p> <p>9 MR. TURNER: I'd like the transcript to</p> <p>10 reflect it</p> <p>11 MR. TORPEY: Q You see the line that has</p> <p>12 been drawn approximately from the center to the forward</p> <p>13 wing position of the cockpit of the ANA aircraft? Do</p> <p>14 you see that?</p> <p>15 A Yes.</p> <p>16 Q Now, if you were seated in the right-hand seat</p> <p>17 of this aircraft, you should be able to see the wings of</p> <p>18 the United aircraft when your aircraft is at that</p> <p>19 position?</p> <p>20 A That is not so</p> <p>21 Q And why not?</p> <p>22 A The line may be there, but the actual</p> <p>23 situation would be different</p> <p>24 Q What do you mean the actually situation would</p> <p>25 be different?</p> <p style="text-align: right;">Page 78</p>	<p>1 representation as -- strike that</p> <p>2 Do you believe that if your aircraft was at</p> <p>3 the position that's reflected in this photograph and the</p> <p>4 United aircraft was at the position that's reflected in</p> <p>5 this photograph, do you believe that you could --</p> <p>6 sitting in the right-hand seat of your aircraft, see the</p> <p>7 tail of the United aircraft?</p> <p>8 A I don't know.</p> <p>9 Q Okay Fair enough. Let me ask you -- let me</p> <p>10 turn for a moment to something else</p> <p>11 With regard to -- I think we covered that</p> <p>12 With regard to -- hang on Excuse me. Let me show you</p> <p>13 one other exhibit I don't think we marked</p> <p>14 Now, during the taxi -- let's mark this.</p> <p>15 (Whereupon, Exhibit 11 was marked for</p> <p>16 identification)</p> <p>17 MR. TORPEY: Q Before we get into that, do</p> <p>18 you recall whether the United aircraft when you first</p> <p>19 saw it while taxiing on October 7, 2003, was stopped or</p> <p>20 was moving?</p> <p>21 THE INTERPRETER: Can you give me that</p> <p>22 question, please</p> <p>23 (Record read by the reporter)</p> <p>24 THE WITNESS: I do not recall at this time.</p> <p>25 MR. TORPEY: Q Now, do you remember, if you</p> <p style="text-align: right;">Page 80</p>
<p>1 A There could have been other obstacles. On</p> <p>2 this photograph it would seem that it is possible to</p> <p>3 have that view along that black line, but, in fact,</p> <p>4 there could have been other things</p> <p>5 Q Well, let's just assume that this photograph</p> <p>6 produced by ANA accurately reflects the scene that</p> <p>7 existed on October 7, 2003, when your aircraft was at</p> <p>8 that position. Do you understand me so far?</p> <p>9 A Yes</p> <p>10 Q And I understand you don't remember the scene</p> <p>11 that day, but if this photograph accurately represents</p> <p>12 the situation as existed on October 7, 2003, when your</p> <p>13 aircraft was at that position, then you would have had a</p> <p>14 sight line from your aircraft to the forward wing</p> <p>15 position of the United aircraft; correct?</p> <p>16 A No.</p> <p>17 Q Why would you not have had a sight line from</p> <p>18 your cockpit to the forward wing position if this is an</p> <p>19 accurate representation of the scene on October 7, 2003?</p> <p>20 A This is an aerial photograph taken from above,</p> <p>21 but on land the situation would be different</p> <p>22 Q How would it be different?</p> <p>23 A I think it would be totally different The</p> <p>24 view would be radically different.</p> <p>25 Q So you're saying that this is not an accurate</p> <p style="text-align: right;">Page 79</p>	<p>1 recall, the last time you looked at the United aircraft</p> <p>2 prior to the impact, whether it was stopped or moving?</p> <p>3 A It was moving. But we are moving to, so it is</p> <p>4 hard to tell.</p> <p>5 Q But it was -- the United aircraft definitely</p> <p>6 was moving; correct?</p> <p>7 A As I just said, we are moving too, but it</p> <p>8 looked like it was moving.</p> <p>9 Q Did you ever -- strike that</p> <p>10 MR. TORPEY: Could you read back my question</p> <p>11 that he answered I just want to have that again.</p> <p>12 (Record read by the reporter)</p> <p>13 MR. TORPEY: Okay That's fine.</p> <p>14 Q Let me ask you to look at Exhibit 11, which I</p> <p>15 think you have in front of you; correct, sir?</p> <p>16 A Yes.</p> <p>17 Q Have you ever had a chance to read that</p> <p>18 statement before.</p> <p>19 A Yes.</p> <p>20 Q When did you last read it?</p> <p>21 A I do not recall</p> <p>22 Q Have you read it in the last couple of days</p> <p>23 since you've been here or last day?</p> <p>24 A I do not recall.</p> <p>25 Q When was the last time you talked to</p> <p style="text-align: right;">Page 81</p>

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<p>1 Mr. Yamaguchi?</p> <p>2 A Yesterday.</p> <p>3 Q And where was that at?</p> <p>4 A At the Hilton Hotel</p> <p>5 Q Okay. Were you staying at the same location</p> <p>6 as he?</p> <p>7 A Yes.</p> <p>8 Q And what did you two discuss?</p> <p>9 A I do not recall specifically.</p> <p>10 Q All right. Now, let's turn to the statement,</p> <p>11 Exhibit 11. Do you remember giving a statement and</p> <p>12 having it typed out?</p> <p>13 A I don't know if it was typed out.</p> <p>14 Q Do you know who took this statement from you?</p> <p>15 A I do not know the name, but it was someone</p> <p>16 from the company.</p> <p>17 Q From ANA?</p> <p>18 A Or some governmental authority from the U S</p> <p>19 I don't recall which</p> <p>20 Q When did you go back to Japan after this</p> <p>21 October 7, 2003 incident?</p> <p>22 A I think it was the day after or two days after</p> <p>23 the incident.</p> <p>24 Q Did someone have a tape recorder and take the</p> <p>25 statement from you?</p> <p style="text-align: right;">Page 82</p>	<p>1 A Yes</p> <p>2 Q Let's look at that statement. And if you look</p> <p>3 at -- it says Dear Mr. Mckenny, and you look to the</p> <p>4 second paragraph underneath That it says that you as the</p> <p>5 first officer seated in right-hand seat, your duty was</p> <p>6 pilot flying. You see that?</p> <p>7 A Yes.</p> <p>8 Q And underneath that you see some time</p> <p>9 references, 18:48, 18:55, 19:30. Do you see that?</p> <p>10 A Yes</p> <p>11 Q Do you know who provided those time references</p> <p>12 for inclusion on this statement?</p> <p>13 A I do not have a clear recollection, but it was</p> <p>14 probably me.</p> <p>15 Q Okay. If it was you, do you know from what</p> <p>16 information you would have gotten those times to provide</p> <p>17 them?</p> <p>18 A Well, with the clock out, the log starts, so I</p> <p>19 can tell the time that way.</p> <p>20 MR TORPEY: Give me again, that answer</p> <p>21 (Record read by the reporter)</p> <p>22 MR TORPEY: Q What are you referring to as</p> <p>23 the clock and the log?</p> <p>24 A I didn't say log. The clock is the clock in</p> <p>25 the aircraft.</p> <p style="text-align: right;">Page 84</p>
<p>1 A I have forgotten.</p> <p>2 Q Now, if you look at the second page of</p> <p>3 Exhibit 11, is that your signature?</p> <p>4 A Yes, I think so.</p> <p>5 Q Do you recall whether there was any prior</p> <p>6 drafts that you reviewed before you signed that</p> <p>7 statement?</p> <p>8 A I have forgotten.</p> <p>9 Q Do you know whether there were any other</p> <p>10 statements that you were asked to sign or review in</p> <p>11 addition to the one that you signed here and we marked</p> <p>12 as Exhibit 11?</p> <p>13 A I do not know</p> <p>14 Q With regard to this statement, which is dated</p> <p>15 October 8, 2003, would it be fair to say that -- strike</p> <p>16 that</p> <p>17 This statement, Exhibit 11, has a date of</p> <p>18 October 8, 2003. Do you see that?</p> <p>19 A Yes</p> <p>20 Q And so this statement by you would have been</p> <p>21 provided on or before -- strike that.</p> <p>22 The statement would have been provided by you</p> <p>23 either on October 7 or no later than October 8, 2003,</p> <p>24 since it's dated October 8, 2003? Is that a fair</p> <p>25 statement?</p> <p style="text-align: right;">Page 83</p>	<p>1 Q Is that the Hobbs?</p> <p>2 A I don't know what you mean by that.</p> <p>3 Q Describe for me what the clock is you're</p> <p>4 referring to from which you got the information that is</p> <p>5 on this exhibit.</p> <p>6 A There is a clock that has a diameter of about</p> <p>7 10 centimeters on the aircraft.</p> <p>8 Q Well, what does that clock do? Just tells you</p> <p>9 the time of day, or does it tell you something about the</p> <p>10 operation of the aircraft, or what does it do?</p> <p>11 A It serves several functions. It shows UTC in</p> <p>12 the time sequence, it also works as a stopwatch. It</p> <p>13 also tells us the Japan time, and it also tells us the</p> <p>14 day according to the western California.</p> <p>15 Q What is 18:48? What is that referring to? Is</p> <p>16 that Japan time?</p> <p>17 A No. I think it is UTC.</p> <p>18 Q Do you know for sure, or are you guessing at</p> <p>19 this point?</p> <p>20 A I am sure</p> <p>21 Q Now, after the impact, how long was it that</p> <p>22 you and the others were in the aircraft before it was</p> <p>23 towed back and you deplaned?</p> <p>24 A I do not remember.</p> <p>25 Q Did you ever go back in the plane -- I should</p> <p style="text-align: right;">Page 85</p>

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1 say, when was the next time you went back into that
 2 particular aircraft following this collision?
 3 A. I do not remember
 4 Q. I take it you did not go back in the aircraft
 5 before you went back to Japan following this collision?
 6 A. Maybe we had left our flight bags onboard, so
 7 we might have returned to retrieve the bags
 8 Q. But only for a few minutes to get the bags,
 9 not to do anything else?
 10 A. I do not have a clear recollection.
 11 Q. When you say you do not have a clear
 12 recollection, does that mean you have no recollection?
 13 A. I'm saying that I might have returned to
 14 retrieve my bag, but that is not certain
 15 Q. So when you use the term in this deposition
 16 that you don't have a clear recollection, what you're
 17 saying is you really don't know, you really would be
 18 guessing; is that correct?
 19 MR. TURNER: Objection as to form.
 20 THE WITNESS: No. That is not so
 21 MR. TORPEY: Q. Okay. What do you mean by
 22 you do not have a clear recollection?
 23 A. That is precisely what I mean
 24 Q. Okay. Well, I guess I'm not sure what you
 25 mean. Let's start over.

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1 collision and before you deplaned, was there discussion
 2 between yourself and the other two pilots as to what
 3 took place?
 4 A. You mean after the collision?
 5 Q. That's correct. Before you deplaned.
 6 A. Yes
 7 Q. Now, there's a cockpit voice recorder in your
 8 aircraft; correct?
 9 A. Yes.
 10 Q. Referring to the one that was involved in the
 11 collision?
 12 A. Yes.
 13 Q. In order to power it up, does it work off of
 14 battery power or an APU? Or what's the power source for
 15 that?
 16 A. I'm not sure.
 17 Q. Let me ask you, did you go through any type
 18 of -- after the accident, did you take any notes or --
 19 you or the others in the cockpit -- were you writing
 20 anything down before you deplaned?
 21 A. I don't think I did.
 22 Q. What were you doing from the time of the
 23 impact until you were towed back and then deplaned.
 24 What did you and the others do other than as you said
 25 talked about what had happened?

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1 What does it mean in your mind that you do not
 2 have a clear recollection?
 3 A. It is just as I said.
 4 Q. When you don't have a clear recollection, is
 5 that another way of saying you don't have an accurate
 6 recollection?
 7 A. No. That's different.
 8 Q. Okay. Then how is it different?
 9 A. Whatever I recall accurately, I recall
 10 accurately.
 11 Q. And if you don't recall it accurately, you
 12 don't have a clear recollection?
 13 A. I think the meaning is a little different
 14 Q. Well, did you fly or deadhead back after this
 15 accident?
 16 THE INTERPRETER: Can I have that question.
 17 (Record read by the reporter)
 18 THE INTERPRETER: I don't understand the
 19 question
 20 MR. TORPEY: Q. When you returned to Japan
 21 after the October 7, 2003 incident, did you return as a
 22 flying member of a crew, or were you a deadheading
 23 passenger back?
 24 A. As a passenger
 25 Q. During the time immediately after the

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1 A. I did various things. For example, I did
 2 tasks that I were assigned, and things that have to be
 3 done to return to the terminal, so I did those things
 4 Q. Tell me what those things are?
 5 A. I think Captain Yamaguchi was making an
 6 announcement.
 7 Q. To the passengers?
 8 A. Yes.
 9 Q. And other than that, what else was done by you
 10 or the others of the flight crew?
 11 A. I can't recall everything, but I think I was
 12 making contact with the cabin attendant also
 13 Q. Other than making the announcement, the
 14 captain that is, and you contacting the flight
 15 attendant, what about with regard to the aircraft and
 16 its systems? What did you do, if anything?
 17 A. I turned the AP in order to shut the engine
 18 down.
 19 Q. What's the AP?
 20 A. APU.
 21 Q. Auxillary power unit?
 22 A. Auxillary power unit.
 23 Q. You turned that on and shut the engines off?
 24 A. I probably shut down one of the engines, and
 25 then turned the APU on, and when it came on, I then

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23 (Pages 86 to 89)

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1 turned the other engine off
 2 Q. Okay Do you remember which engine you shut
 3 down first?
 4 A. Probably it was the right engine.
 5 Q. Were you following a checklist in doing your
 6 shutdown procedures?
 7 A. There is no engine-shutdown checklist.
 8 Q. With regard to the cockpit voice recorder, do
 9 you know if there is a tape or a CD or what is the
 10 mechanism in the cockpit voice recorder that's used to
 11 record the transmissions or the discussions?
 12 A. I do not know about that. Clearly.
 13 Q. Let's go ahead and look at your statement,
 14 which is Exhibit 11, unless you want to take a break
 15 MR. TURNER: We have been going close to an
 16 hour and a half. It probably would be appropriate to
 17 take a break
 18 MR. TORPEY: You want to take a break?
 19 MR. TURNER: Yes
 20 THE VIDEOGRAPHER: Going off the record The
 21 time on the monitor is 3:28 p.m.
 22 (Recess taken.)
 23 THE VIDEOGRAPHER: Coming back on the record
 24 The time on the monitor is 3:44 Please begin.
 25 MR. TORPEY: Q. Mr. Nishiguchi, the

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1 you taxied prior to the impact in the navigation log;
 2 correct?
 3 A. No. What I recorded was the block-out time.
 4 Q. Was the what time?
 5 A. Blocked out time.
 6 Q. What does blocked out time mean? Oh, I'm
 7 sorry. 18:48 was the time that you were released from
 8 the gate; is that correct?
 9 A. Yes.
 10 Q. Looked out means simply they removed the
 11 chocks from the wheels; correct?
 12 A. Yes.
 13 Q. Now -- I'm sorry. Go ahead.
 14 A. That is the time that the aircraft began to
 15 move as it is towed by the towing car
 16 Q. And you would have written that down in the
 17 nava- -- you or Mr. Yamaguchi would have written that
 18 down in the navigation log; correct?
 19 A. Yes.
 20 Q. Now, the next reference on Exhibit 11 is 1855.
 21 You see that?
 22 A. Yes.
 23 Q. Would that be the point at which you started
 24 the taxi?
 25 A. Yes.

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1 statement, Exhibit 11, if you would look at that again.
 2 A. Yes.
 3 Q. We had talked before the break about those
 4 time references like 18:48, and that that was, you
 5 believed, times that you personally provided to the
 6 person taking the statement and that those times were
 7 UTC times from the clock on the aircraft. Is that a
 8 correct characterization of your testimony?
 9 A. Yes.
 10 Q. Now, as you were taxiing before the impact,
 11 you had no reason to write down -- look at the clock and
 12 write down what time events were occurring, and in fact
 13 you did not do that; correct?
 14 A. Ordinarily, I do write it down.
 15 Q. Okay Where would that information be written
 16 down?
 17 A. There's a navigation log that we receive
 18 through the dispatch, and that is where I would write it
 19 down.
 20 Q. And that navigation log would have been a
 21 document that you would have had with you on that
 22 airplane on October 7 of 2003?
 23 A. I'm not sure it was me. It was either
 24 Mr. Yamaguchi or myself.
 25 Q. But either way it would have been written as

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1 Q. And you start the taxi when you are at the
 2 engine-start line; correct?
 3 A. Yes.
 4 Q. And the final time on the statement 19:30 is
 5 when you were towed back and actually back at the gate
 6 in the chocks or the blocks?
 7 A. Yes.
 8 Q. Now, if you look at 18:55, do you see that?
 9 A. Yes.
 10 Q. It says started taxi then contacted ground
 11 with 121.8. And then it goes on to give a number of
 12 subparts, clearance, talks about during the taxi
 13 something happened, approaching spot 10. In fact, there
 14 are one, two, three, four, five lines under the time
 15 reference of 18:55 where you started to taxi.
 16 Do you see that?
 17 A. Yes.
 18 Q. The time that you did each of those subparts,
 19 the time after 18:55, that you do not know; correct?
 20 A. Right.
 21 Q. Let's talk about the subparts under 18:55. At
 22 least with regard to the first one, it says here,
 23 started taxi, then contacted ground with 121.8 That
 24 would have been a different frequency than the frequency
 25 that is used to communicate with ramp control; is that

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<p>1 correct?</p> <p>2 A Yes</p> <p>3 Q If you go to the next one it says clearance</p> <p>4 was, and then in a bracket it says, taxi to RWY28L. Do</p> <p>5 you see that discussion?</p> <p>6 A Yes</p> <p>7 Q Do you know why that information, some of it</p> <p>8 is in a bracket?</p> <p>9 A I think I was so instructed, so I wrote it</p> <p>10 this way</p> <p>11 Q Do you know why you were instructed to write</p> <p>12 it that way?</p> <p>13 A I believe that the portion in the brackets is</p> <p>14 a quote from the ground</p> <p>15 Q Oh, okay. Understood. So if looking at your</p> <p>16 statement, Exhibit 11, anything that's in brackets you</p> <p>17 believe to be a quote from a source other than yourself;</p> <p>18 is that correct?</p> <p>19 A Yes. It is a direct quote from the source.</p> <p>20 Q Now, the parts that are not in brackets, that</p> <p>21 would be the information taken from you; correct?</p> <p>22 A No. This is an English translation of my</p> <p>23 statements.</p> <p>24 Q I understand that. But the language that's</p> <p>25 not in brackets would have been provided by you, albeit</p> <p style="text-align: right;">Page 94</p>	<p>1 performed a deviation to the left of center; correct?</p> <p>2 A No</p> <p>3 Q What are you referring to when you say</p> <p>4 deviated to the left side of the line for additional</p> <p>5 clearance to the UAL B777?</p> <p>6 A Since I saw the UAL B777 to the right, I</p> <p>7 deviated to the left side of the yellow line a little</p> <p>8 Q Okay. And what was the reason that you</p> <p>9 deviated -- strike that</p> <p>10 Was the reason that you slowed and deviated to</p> <p>11 the left of the yellow centerline -- strike that</p> <p>12 You say that you slowed and deviated to the</p> <p>13 left of the yellow line for additional clearance. What</p> <p>14 did you mean by additional clearance?</p> <p>15 MR. TURNER: Objection as to form and</p> <p>16 foundation.</p> <p>17 THE WITNESS: I'm talking about the clearance</p> <p>18 or space between the UA aircraft</p> <p>19 MR. TORPEY: Q The space between your</p> <p>20 aircraft and the United aircraft, is that what you're</p> <p>21 talking about when you said you deviated from the yellow</p> <p>22 line for additional clearance?</p> <p>23 A The yellow line means centerline of the</p> <p>24 taxiway, and clearance refers to the space between the</p> <p>25 two.</p> <p style="text-align: right;">Page 96</p>
<p>1 in the Japanese language, and then translated into</p> <p>2 English, and now appearing on Exhibit 11; is that</p> <p>3 correct? Let me rephrase it</p> <p>4 I guess another way to put it is, would it be</p> <p>5 fair to say that anything on Exhibit 11 under the time</p> <p>6 reference 18:48 or 18:55 that is not in brackets, would</p> <p>7 have been information taken from you, in other words,</p> <p>8 they're your words translated from Japanese to English?</p> <p>9 A Yes</p> <p>10 Q Let's look under 18:55 where it says here</p> <p>11 during the taxi I continually -- I continuously</p> <p>12 maneuvered the nose gear on the yellow line except for</p> <p>13 the very last part.</p> <p>14 And then the next line says, approaching</p> <p>15 spot 10, I saw a UAL B777 starting pushout then slowed</p> <p>16 taxi speed and at the same time deviated to left side of</p> <p>17 the yellow line for additional clearance to the UAL B777?</p> <p>18 A Yes.</p> <p>19 Q You say then slowed taxi speed. You're</p> <p>20 referring to your aircraft, the ANA aircraft; correct?</p> <p>21 A Yes</p> <p>22 Q And at the same time deviated to the left side</p> <p>23 of the yellow line for additional clearance to the UAL</p> <p>24 B777. Again the deviation to the left you're referring</p> <p>25 to is a deviation to the left of your aircraft, you</p> <p style="text-align: right;">Page 95</p>	<p>1 Q Clearance refers to the space between the</p> <p>2 centerline on the taxiway and the United aircraft? Is</p> <p>3 that what you're saying?</p> <p>4 A I don't understand.</p> <p>5 Q By deviating, in other words, turning your</p> <p>6 aircraft to the left of the centerline, by doing that,</p> <p>7 you were attempting to create a greater space or</p> <p>8 clearance, as you call it, between your aircraft and the</p> <p>9 United aircraft; true statement?</p> <p>10 A The clearance means that, but I didn't turn to</p> <p>11 the left.</p> <p>12 Q You inputted a heading change to the left of</p> <p>13 the centerline; correct?</p> <p>14 A No.</p> <p>15 Q Now, did you maneuver -- what did you do to</p> <p>16 deviate -- strike that.</p> <p>17 What did you do in terms of your piloting the</p> <p>18 aircraft to direct it to go, as you recall it, deviate</p> <p>19 to the left side of the yellow line. What did you do?</p> <p>20 A Without any big input, the aircraft can</p> <p>21 deviate a little to the left.</p> <p>22 Q Sir, as the flying pilot that day, what</p> <p>23 control inputs did you impart on that aircraft to make</p> <p>24 the heading change to deviate to the left of the yellow</p> <p>25 line?</p> <p style="text-align: right;">Page 97</p>

25 (Pages 94 to 97)

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<p>1 A I do not have a clear recollection</p> <p>2 Q. Do you have any recollection?</p> <p>3 A. Even if one follows the centerline, the</p> <p>4 aircraft can deviate several centimeters to the left</p> <p>5 And so it was that degree. The nose gear is about 5</p> <p>6 meters below me, so I just have a sense of being -- of</p> <p>7 trying to go along the centerline, but one doesn't know</p> <p>8 specifically.</p> <p>9 Q. Could you hand me that exhibit, please.</p> <p>10 Mr Nishiguchi, let me ask you once again</p> <p>11 A. Yes.</p> <p>12 Q If you look at your statement, it says here</p> <p>13 you deviated to the left side of the yellow line for</p> <p>14 additional clearance to the UAL 777, and it says that</p> <p>15 you did that as you slowed the taxi speed, or at the</p> <p>16 same time that you slowed; correct?</p> <p>17 MR. TURNER: Objection is to form and</p> <p>18 foundation</p> <p>19 MR. TORPEY: Let me rephrase I'll restate</p> <p>20 it</p> <p>21 Q It says in your statement here that as you</p> <p>22 approach spot 10, you saw the United aircraft start to</p> <p>23 push out You stated earlier that you slowed taxi</p> <p>24 speed, being your aircraft, and in your statement you</p> <p>25 say at the same time you deviated to the left side of</p> <p style="text-align: right;">Page 98</p>	<p>1 provided to the NTSB, you say that you slowed taxi speed</p> <p>2 and at the same time deviated to the left side of the</p> <p>3 yellow line for additional clearance to the UAL Boeing</p> <p>4 777</p> <p>5 What was your reason for slowing and at the</p> <p>6 same time deviating to the left for additional</p> <p>7 clearance? What was the reason you felt you needed to</p> <p>8 do that?</p> <p>9 A. Well, there was an aircraft that was pushing</p> <p>10 back from nowhere. I saw this aircraft, so I</p> <p>11 reflexively, should I say, deviated to the left of the</p> <p>12 centerline. I felt that by applying the brakes I could</p> <p>13 see better.</p> <p>14 MR. TORPEY: Was the word reflexively?</p> <p>15 THE INTERPRETER: Uh-huh.</p> <p>16 MR. TORPEY: Q Mr Nishiguchi, as the flying</p> <p>17 pilot of the aircraft that day --</p> <p>18 THE INTERPRETER: Excuse me. Reflex action</p> <p>19 As a reflex action may be better.</p> <p>20 MR. TORPEY: Q. Could you restate the answer</p> <p>21 then using the correct terminology, please</p> <p>22 THE INTERPRETER: Yes.</p> <p>23 THE WITNESS: Well, I saw another aircraft</p> <p>24 pushing back from nowhere to the right I saw this</p> <p>25 aircraft, and so as a reflex action, I deviated to the</p> <p style="text-align: right;">Page 100</p>
<p>1 the yellow line for additional clearance to the UAL</p> <p>2 Boeing 777.</p> <p>3 Is that still a true statement, sir?</p> <p>4 A This is what I said at that point in time</p> <p>5 Q. And at that point in time, that was at most a</p> <p>6 day after the accident; correct?</p> <p>7 A. I'm not sure.</p> <p>8 Q Well, you're not sure. But the accident</p> <p>9 happened on October 7, and this statement is dated</p> <p>10 October 8, isn't it, Mr Nishiguchi?</p> <p>11 A Yes.</p> <p>12 Q. Would it be fair to say that since today is</p> <p>13 November 28, 2007, and since this accident happened on</p> <p>14 October 7, 2003, that your recollection would certainly</p> <p>15 have been better on October 8 of 2003 than it is today.</p> <p>16 Fair statement, sir?</p> <p>17 A. Yes.</p> <p>18 Q. Now, in your statement, which you signed, you</p> <p>19 understand that this was a statement that was provided</p> <p>20 to the National Transportation Safety Board, that's the</p> <p>21 U.S. government investigation arm that investigated this</p> <p>22 collision at San Francisco Airport.</p> <p>23 You understood that; right?</p> <p>24 A. Yes</p> <p>25 Q. And in that statement that you signed and</p> <p style="text-align: right;">Page 99</p>	<p>1 left to the centerline -- to the left of the centerline.</p> <p>2 I thought that if I applied the brakes, I would be able</p> <p>3 to see better.</p> <p>4 MR. TORPEY: Q. Was there a discussion within</p> <p>5 the cockpit before you slowed and deviated to the left</p> <p>6 about your doing that, in other words, before you did</p> <p>7 it, was there a discussion about doing that?</p> <p>8 A I do not recall.</p> <p>9 Q. You don't recall one way or the other?</p> <p>10 A. I do not recall whether or not there was a</p> <p>11 discussion.</p> <p>12 Q. Would you agree with me, if there was a</p> <p>13 discussion, that your decision was not a reflex action</p> <p>14 but an intentional decision to slow and turn -- slow and</p> <p>15 deviate to the left?</p> <p>16 MR. TURNER: Objection as to form and</p> <p>17 foundation.</p> <p>18 MR. TORPEY: Let me just restate the question</p> <p>19 in light of the objection.</p> <p>20 Q Mr Nishiguchi, if it's shown in this case</p> <p>21 that there was, in fact -- was, in fact, discussion</p> <p>22 within the cockpit before you slowed and deviated to the</p> <p>23 left, discussion about your doing that, would you agree</p> <p>24 with me that it was not a reflexive action but rather a</p> <p>25 conscious decision by you to slow and deviate to the</p> <p style="text-align: right;">Page 101</p>

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<p>1 left?</p> <p>2 MR. TURNER: Objection as to form and</p> <p>3 foundation.</p> <p>4 THE WITNESS: That was a long question, and I</p> <p>5 don't understand it.</p> <p>6 MR. TORPEY: Q What did you mean by a</p> <p>7 reflexive action when you testified earlier?</p> <p>8 A. Rather than a reflex action, I would say it is</p> <p>9 a commonsensical action. The object is to the right, so</p> <p>10 no one would go to the right.</p> <p>11 Q. And the reason, if we get back to this</p> <p>12 statement, the areas -- back up.</p> <p>13 You had 155 passengers on your aircraft on</p> <p>14 October 7 of 2003; correct, sir?</p> <p>15 A I do not know what the number was. I have</p> <p>16 forgotten.</p> <p>17 Q. You had passengers on your aircraft when you</p> <p>18 taxied on October 7 of 2003; correct, sir?</p> <p>19 A. Yes.</p> <p>20 Q. And you have crew members including yourself</p> <p>21 obviously; correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you were departing for a long flight to</p> <p>24 Japan; correct?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 102</p>	<p>1 spilled out?</p> <p>2 MR. TORPEY: Q. That wasn't my question</p> <p>3 Mr Nishiguchi, as the flying pilot of the ANA</p> <p>4 aircraft on October 7 of 2003, with fuel on that</p> <p>5 aircraft and passengers and crew on that aircraft, isn't</p> <p>6 it true, sir, that when you saw the United aircraft, the</p> <p>7 reason you say in your statement to the NTSB that you</p> <p>8 slowed and at the same time deviated to the left for</p> <p>9 additional clearance, was because you perceived there</p> <p>10 was a potential collision hazard with that United</p> <p>11 aircraft?</p> <p>12 Isn't that a true statement?</p> <p>13 MR. TURNER: Objection as to form and</p> <p>14 foundation.</p> <p>15 THE WITNESS: No. That situation happens</p> <p>16 frequently, so I did not state that I made that move for</p> <p>17 that particular purpose. I did not have a perception of</p> <p>18 a collision. I did not think that there was a</p> <p>19 possibility of collision. I was talking about a</p> <p>20 situation that is quite ordinary.</p> <p>21 MR. TORPEY: Q. Now, Exhibit 11, when you</p> <p>22 signed that, was that a true and accurate statement as</p> <p>23 written?</p> <p>24 A. Yes, I believe so.</p> <p>25 MR. TORPEY: Let's take a five-minute break.</p> <p style="text-align: right;">Page 104</p>
<p>1 Q. And you were fully loaded with jet fuel;</p> <p>2 correct?</p> <p>3 A. No.</p> <p>4 Q. You did not take on fuel to fly over the ocean</p> <p>5 from San Francisco to Japan?</p> <p>6 MR. TURNER: Objection as to form and</p> <p>7 foundation.</p> <p>8 THE WITNESS: It wasn't fully loaded.</p> <p>9 MR. TORPEY: Q You had sufficient jet fuel</p> <p>10 on your aircraft in order to fly from San Francisco to</p> <p>11 Japan; correct, sir?</p> <p>12 A. Naturally there was fuel, but it wasn't a full</p> <p>13 tank.</p> <p>14 Q. Jet fuel is very flammable or an explosion</p> <p>15 hazard; correct?</p> <p>16 A. Fuel is flammable, but I don't know if it was</p> <p>17 explosive.</p> <p>18 Q. As a pilot for ANA, do you believe a safety</p> <p>19 hazard would exist to passengers if there was fuel</p> <p>20 spilling out of an aircraft as the aircraft was taxiing.</p> <p>21 Could that pose a safety hazard to passengers and the</p> <p>22 aircraft?</p> <p>23 MR. TURNER: Objection to form and foundation</p> <p>24 and an incomplete hypothetical.</p> <p>25 THE WITNESS: Are you saying that the fuel</p> <p style="text-align: right;">Page 103</p>	<p>1 THE VIDEOGRAPHER: Going off the record. The</p> <p>2 time on the monitor is 4:28 p.m.</p> <p>3 (Recess taken.)</p> <p>4 THE VIDEOGRAPHER: Coming back on the record</p> <p>5 The time on the monitor is 4:37.</p> <p>6 MR. TORPEY: Marshall, do you have additional</p> <p>7 documents you're producing in response to our deposition</p> <p>8 notice today?</p> <p>9 MR. TURNER: This witness brought with him his</p> <p>10 certificates. Here's a copy. And I have redacted</p> <p>11 training records. Is there an agreement that these</p> <p>12 documents will be subject to the confidentiality order</p> <p>13 in the form directed by Judge LaPorte.</p> <p>14 MR. TORPEY: As I've said many times before, I</p> <p>15 have no problem with that.</p> <p>16 MR. TURNER: I'd like to see it at some</p> <p>17 time --</p> <p>18 MR. TORPEY: I can provide it, if you want --</p> <p>19 if you have more time and you want to take a crack at</p> <p>20 it, you can send it to me. You can --</p> <p>21 MR. TURNER: The judge didn't order me to; she</p> <p>22 ordered you to.</p> <p>23 MR. TORPEY: She didn't have a deadline, so we</p> <p>24 can discuss that.</p> <p>25 MR. TURNER: You can wait forever if you want.</p> <p style="text-align: right;">Page 105</p>

27 (Pages 102 to 105)

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<p>1 MR. TORPEY: Let's see what else you have</p> <p>2 MR. TURNER: These are the training records,</p> <p>3 two pages, last column and second from last column are</p> <p>4 blacked out, redacted.</p> <p>5 Just ask the witness, is this his employee</p> <p>6 number on the upper right-hand corner?</p> <p>7 THE WITNESS: Yes</p> <p>8 MR. TORPEY: Can you tell us what's</p> <p>9 rediscussed and why you redacted it?</p> <p>10 MR. TURNER: Those contain comments, personal</p> <p>11 information, and we consider that to be confidential and</p> <p>12 subject to the Japan act for the protection of personal</p> <p>13 information. And as mentioned by Mr. Yamaguchi</p> <p>14 yesterday, we have obtained a copy of the modification</p> <p>15 to, I think his term was, a document in the routing</p> <p>16 manual after the accident, which I do not think is</p> <p>17 admissible, but it is possibly discoverable</p> <p>18 So this is one page dated on the upper</p> <p>19 left-hand corner 17 October '03, airport briefing,</p> <p>20 San Francisco, California.</p> <p>21 MR. TORPEY: So let me get this straight</p> <p>22 You're giving us today one page of the routing manual</p> <p>23 that was asked for previously?</p> <p>24 MR. TURNER: I don't recall the routing manual</p> <p>25 ever being asked for.</p> <p style="text-align: right;">Page 106</p>	<p>1 certificate. And next certification number is written</p> <p>2 Q. Just tell me the nature of the documents. I</p> <p>3 don't need you to go through all the information on</p> <p>4 them</p> <p>5 A. The next is a document called ratings and</p> <p>6 limitations. And the other side of that card is the</p> <p>7 next page.</p> <p>8 And this next copy is a copy of the aviation</p> <p>9 English language proficiency certification, and the next</p> <p>10 page is a copy of the aviation medical examination</p> <p>11 certificate. And a copy of the other side.</p> <p>12 And the next page is a copy of my aviation</p> <p>13 radio communication license. And the next page is my --</p> <p>14 is the page giving the scores of my various</p> <p>15 examinations, and the next page is a continuation of</p> <p>16 that. And typically there is the airport briefing of</p> <p>17 San Francisco Airport.</p> <p>18 Q. The airport briefing document that you just</p> <p>19 mentioned, is that part of the routing manual?</p> <p>20 A. Yes</p> <p>21 Q. And is that a manual that would have been on</p> <p>22 the 777 aircraft on October 7 of 2003?</p> <p>23 A. I do not have a clear recollection. This</p> <p>24 could have changed.</p> <p>25 Q. Would there have been a routing manual -- if</p> <p style="text-align: right;">Page 108</p>
<p>1 MR. TORPEY: I see. So the document you're</p> <p>2 giving me is one page from the routing manual?</p> <p>3 MR. TURNER: That's what Mr. Yamaguchi</p> <p>4 yesterday described as the document in the routing</p> <p>5 manual.</p> <p>6 MR. TORPEY: For the record, that one says at</p> <p>7 the top, Airport Briefing 1, dated 17 October of '03</p> <p>8 Do you have any other documents you're</p> <p>9 producing today?</p> <p>10 MR. TURNER: No.</p> <p>11 MR. TORPEY: Let me mark -- I don't have a</p> <p>12 copy of that. Apparently you have some documents that</p> <p>13 you redacted. I don't have a copy of that.</p> <p>14 Let me mark all the documents that were just</p> <p>15 produced as Exhibit 12.</p> <p>16 (Whereupon, Exhibit 12 was marked for</p> <p>17 identification.)</p> <p>18 MR. TURNER: May I see it, please.</p> <p>19 MR. TORPEY: Q. Mr. Nishiguchi, let me show</p> <p>20 you what was marked as Exhibit 12, which is all the</p> <p>21 documents that your counsel handed to me that he was</p> <p>22 producing today in response to the deposition notice</p> <p>23 And can you tell me what these documents</p> <p>24 consist of.</p> <p>25 A. The first one is the airline transport pilot</p> <p style="text-align: right;">Page 107</p>	<p>1 that page didn't come from the one that was on the</p> <p>2 aircraft on October 7 of 2003, would there have been a</p> <p>3 routing manual on the aircraft on that date?</p> <p>4 A. I had the most recent and the to-date</p> <p>5 effective manual at that time.</p> <p>6 Q. The question though, sir, is, was there a</p> <p>7 routing manual on your aircraft on the day of this</p> <p>8 accident?</p> <p>9 A. The three people who had route manuals were</p> <p>10 onboard, so as a result it would mean that the route</p> <p>11 manuals were onboard</p> <p>12 Q. The information that's blacked out, what kind</p> <p>13 of information is that, do you know?</p> <p>14 A. I do not know. And at the top it is written</p> <p>15 overall findings, and that's about me</p> <p>16 Q. Did anyone ask you whether you agreed to</p> <p>17 release that information to us?</p> <p>18 A. No</p> <p>19 Q. And do you have any problem with us getting</p> <p>20 copies of those documents without all the lines blacked</p> <p>21 out?</p> <p>22 A. It's okay with me, but there is the company,</p> <p>23 the judgment that has to be considered.</p> <p>24 Q. Okay. Let me ask you, earlier in the</p> <p>25 deposition you indicated that after you -- strike that</p> <p style="text-align: right;">Page 109</p>

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<p>1 You indicated that you made the deviation to</p> <p>2 the left to attempt to see better. Were you, in fact,</p> <p>3 able to see better after deviating to the left?</p> <p>4 A Perhaps I did not say it the correct way. I</p> <p>5 didn't deviate or veer to the left to see better. I did</p> <p>6 so --</p> <p>7 THE INTERPRETER: The interpreter will</p> <p>8 restate</p> <p>9 THE WITNESS: Perhaps I did not express myself</p> <p>10 well. I did not deviate or veer to the left to see</p> <p>11 better. I applied the brakes in order to see better.</p> <p>12 MR. TORPEY: Q. And after you applied the</p> <p>13 brakes, were you able to see better?</p> <p>14 A. Yes</p> <p>15 Q. What is it that you were able to see better?</p> <p>16 Would that have been the United aircraft?</p> <p>17 A. By lowering speed, I was able to see the</p> <p>18 United aircraft better and I was able to improve</p> <p>19 visibility, improve the ability to see all things that</p> <p>20 were visible or in my visibility.</p> <p>21 Q. Have you ever heard of the term wing growth?</p> <p>22 THE INTERPRETER: Wing growth?</p> <p>23 THE REPORTER: Wing growth.</p> <p>24 THE WITNESS: No.</p> <p>25 MR. TORPEY: Q. If you input -- have you ever</p> <p style="text-align: right;">Page 110</p>	<p>1 Q. Well, that's why I asked you if you would do</p> <p>2 anything else, sir. If you pushed both brakes, then</p> <p>3 you're not going to change heading, you're going to</p> <p>4 stop, right, or slow?</p> <p>5 A. It depends on the pressure applied to the</p> <p>6 brakes -- it depends on the brake pressure.</p> <p>7 Q. If you were to apply left brake pressure and</p> <p>8 no brake pressure to the right, can you impart a heading</p> <p>9 change from 060 to 055 on a 777 aircraft?</p> <p>10 A. I'm not sure.</p> <p>11 Q. Let's say you could -- strike that</p> <p>12 When you make a heading change while taxiing</p> <p>13 on the ground, a heading change from 060 to 055, do you</p> <p>14 know what the direction of movement of the right-hand</p> <p>15 wing would be during that time frame?</p> <p>16 A. Would it not move 5 degrees to the left?</p> <p>17 Q. Well, I'm asking you the question, sir. The</p> <p>18 question is, do you know even today what the movement of</p> <p>19 the right-hand wing of a 777 aircraft would be when you</p> <p>20 impart a heading change from 060 to 055? If you don't</p> <p>21 know, just tell me.</p> <p>22 A. I know it will resolve 5 degrees to the left.</p> <p>23 Q. So in other words, when you say 5 degrees to</p> <p>24 the left -- would another way to put it be that it</p> <p>25 translates radially?</p> <p style="text-align: right;">Page 112</p>
<p>1 applied brake pressure to initiate a heading change</p> <p>2 while taxiing on the ground?</p> <p>3 A. Are you inquiring if the heading was changed</p> <p>4 based on braking?</p> <p>5 Q. My question to you, sir, is as a pilot, have</p> <p>6 you ever in being a flying pilot on a 777 inputted a</p> <p>7 heading change -- strike that. Let me start over.</p> <p>8 Have you ever inputted a heading change on a</p> <p>9 777 aircraft by applying brake pressure?</p> <p>10 A. Yes</p> <p>11 Q. And in order -- say you were taxiing along a</p> <p>12 yellow centerline and you wanted to make a heading</p> <p>13 change from say 060 degrees to 055. Would you apply</p> <p>14 left or right brake pressure to do that?</p> <p>15 A. I'd like those numbers again.</p> <p>16 THE INTERPRETER: The interpreter will say it</p> <p>17 in Japanese.</p> <p>18 MR. TORPEY: Q. 060 to 055</p> <p>19 A. I would apply both.</p> <p>20 Q. You would apply left and right?</p> <p>21 A. Yes</p> <p>22 Q. Would you do anything else?</p> <p>23 A. No. I wouldn't do anything in particular. I</p> <p>24 don't know if I have ever changed as much as 5 degrees</p> <p>25 based on brake pressure alone.</p> <p style="text-align: right;">Page 111</p>	<p>1 A. I'm going to show with my hand movement</p> <p>2 Let's say this is the left wing, when the nose goes</p> <p>3 left, the left wing will move 5 degrees</p> <p>4 Q. In other words, it goes -- let me see if we</p> <p>5 can do this</p> <p>6 I admit I'm not an artist. Okay. In a</p> <p>7 situation -- let me do this.</p> <p>8 THE VIDEOGRAPHER: Three minutes to tape</p> <p>9 change, Counsel</p> <p>10 MR. TORPEY: Why don't you change it. It</p> <p>11 would probably be a good idea.</p> <p>12 THE VIDEOGRAPHER: This concludes Videotape 3</p> <p>13 in the deposition of Yusuke Nishiguchi. Going off the</p> <p>14 record. The time is 5:03</p> <p>15 (Discussion off the record.)</p> <p>16 THE VIDEOGRAPHER: Here begins Videotape 4 of</p> <p>17 the deposition of Yusuke Nishiguchi. Coming back on the</p> <p>18 record. The time is 5:04 p.m. Please begin.</p> <p>19 MR. TORPEY: Q. Sir, looking at this drawing,</p> <p>20 can you tell me which direction this right wing will</p> <p>21 move when you apply left brake pressure to impart a</p> <p>22 heading change on a 777 aircraft from 060 degrees to</p> <p>23 055 degrees? Show me which direction this right wing</p> <p>24 moves.</p> <p>25 A. It would move upward by 5 degrees.</p> <p style="text-align: right;">Page 113</p>

Yusuke Nishiguchi

1 Q So in other words, it goes this way; correct?
 2 A No It would go diagonally upwards --
 3 Q No problem Let me do this
 4 A There's an axis in the middle
 5 Q We'll draw that. Why don't I hand this to you
 6 and draw what you believe to be the direction of
 7 movement.
 8 MR. TORPEY: Do you have another colored pen?
 9 While he's doing that, why don't we mark that
 10 (Whereupon, Exhibit 13 was marked for
 11 identification.)
 12 MR. TORPEY: Q Let me show you what we
 13 marked Exhibit 13. Please draw on here the movement of
 14 the right wing we've been discussing, and you can use
 15 the red pen to do that, please. Do it on the drawing
 16 Actually, do it on the right wing Show it
 17 A I drew a magnified version, so the degree
 18 there would be about 30 degrees, but the actual movement
 19 degree would be one-sixth of that.
 20 Q But the direction would be as indicated on
 21 Exhibit 13; correct?
 22 A Yes.
 23 MR. TORPEY: Thank you very much, sir. I
 24 don't have any other questions.
 25 And I say I don't have any other questions,

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1 CERTIFICATE OF REPORTER
 2 I, BRANDON D COMBS, a Certified Shorthand
 3 Reporter, hereby certify that the witness in the
 4 foregoing deposition was by me duly sworn to tell the
 5 truth, the whole truth, and nothing but the truth in the
 6 within-entitled cause;
 7 That said deposition was taken in shorthand by
 8 me, a disinterested person, at the time and place
 9 therein stated, and that the testimony of the said
 10 witness was thereafter reduced to typewriting, by
 11 computer, under my direction and supervision;
 12 That before completion of the deposition,
 13 review of the transcript was not requested If
 14 requested, any changes made by the deponent (and
 15 provided to the reporter) during the period allowed are
 16 appended hereto
 17 I further certify that I am not of counsel or
 18 attorney for either or any of the parties to the said
 19 deposition, nor in any way interested in the event of
 20 this cause, and that I am not related to any of the
 21 parties thereto.
 22 DATED: November 29, 2007
 23
 24
 25 BRANDON D. COMBS, CSR 12978

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1 but we reserve the right to continue this deposition
 2 once the court rules on the issue of the nonproduced
 3 documents and documents that were produced.
 4 THE VIDEOGRAPHER: Should we go off the
 5 record This concludes Videotape 4 in the deposition of
 6 Yusuke Nishiguchi. Going off the record The time on
 7 the monitor is 5:08 p m.
 8 (Whereupon, the deposition adjourned at
 9 5:08 p m)
 10 --oOo--
 11 I declare under penalty of perjury that the
 12 foregoing is true and correct. Subscribed at
 13 _____, California, this ____ day
 14 of _____, 2007
 15
 16
 17
 18 YUSUKE NISHIGUCHI
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 20
 21
 22
 23
 24
 25

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